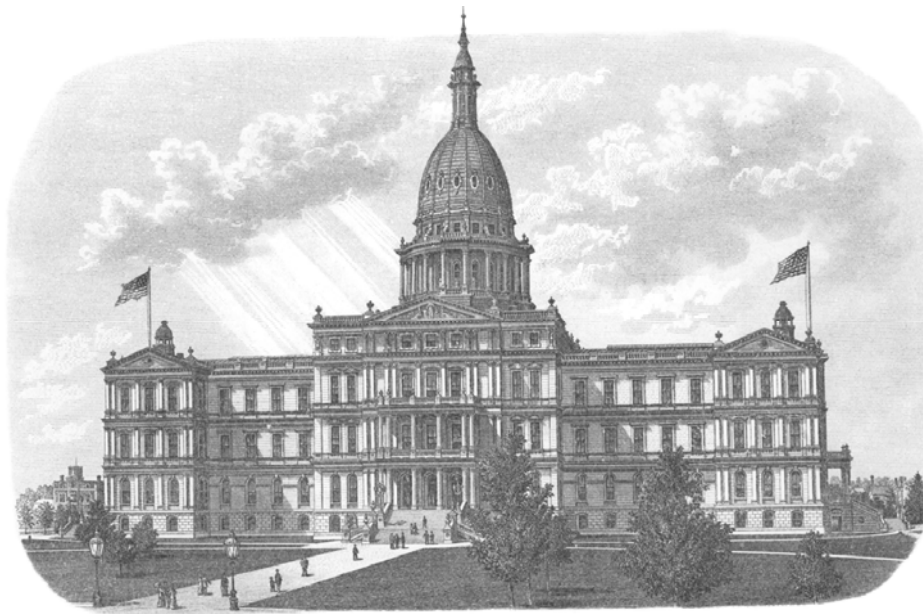


Michigan Register

Issue No. 8 – 2013 (Published May 15, 2013)



GRAPHIC IMAGES IN THE MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
The Michigan Compiled Laws



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(This issue, published May 15, 2013, contains
documents filed from April 15, 2013 to May 1, 2013)

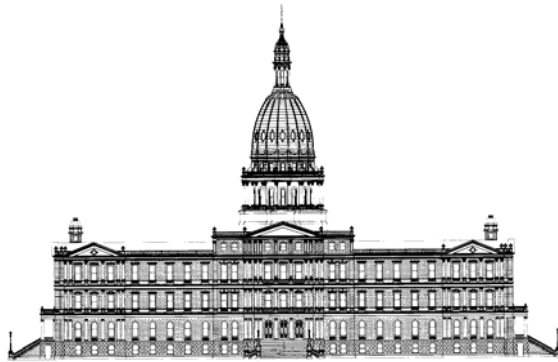
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Office of Regulatory Reinvention

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Steve Arwood, Director, Office of Regulatory Reinvention; **Deidre O’Berry**, Administrative Rules Specialist for Operations and Publications.

Rick Snyder, Governor



Brian Calley, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
- (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
- (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
- (d) Proposed administrative rules.
- (e) Notices of public hearings on proposed administrative rules.
- (f) Administrative rules filed with the secretary of state.
- (g) Emergency rules filed with the secretary of state.
- (h) Notice of proposed and adopted agency guidelines.
- (i) Other official information considered necessary or appropriate by the office of regulatory reform.
- (j) Attorney general opinions.
- (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.

(3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.

(4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.

(5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the Office of Regulatory Reinvention for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reinvention is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reinvention, Romney Building – Fourth Floor, 111 S. Capitol Avenue, Lansing, MI 48933

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: Office of Regulatory Reinvention, Romney Building – Fourth Floor, 111 S. Capitol Avenue, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reinvention (517) 335-8658.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reinvention: www.michigan.gov/orr.

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reinvention Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Steve Arwood, Director
Office of Regulatory Reinvention

2013 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2013	February 1, 2013
2	February 1, 2013	February 15, 2013
3	February 15, 2013	March 1, 2013
4	March 1, 2013	March 15, 2013
5	March 15, 2013	April 1, 2013
6	April 1, 2013	April 15, 2013
7	April 15, 2013	May 1, 2013
8	May 1, 2013	May 15, 2013
9	May 15, 2013	June 1, 2013
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15	August 15, 2013	September 1, 2013
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19	October 15, 2013	November 1, 2013
20	November 1, 2013	November 15, 2013
21	November 15, 2013	December 1, 2013
22	December 1, 2013	December 15, 2013
23	December 15, 2013	January 1, 2014
24	January 1, 2014	January 15, 2014

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ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reinvention shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(f) Administrative rules filed with the secretary of state.”

ADMINISTRATIVE RULES

DEPARTMENT OF TREASURY

STATE TREASURER

GENERAL SALES AND USE TAX RULES

SPECIFIC SALES AND USE TAX RULES

Filed with the Secretary of State on April 29, 2013
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the Department of Treasury by section 3 of 1941 PA 122, MCL 205.3)

R 205.5, R 205.9 and R 205.23 of the Michigan Administrative Code are rescinded, R 205.1, R 205.8, R 205.15, R 205.16, R 205.20, R 205.22, R 205.26, R 205.28 and R 205.136 are amended as follows:

GENERAL SALES AND USE TAX RULES

R 205.1 Sales tax licenses.

Rule 1. (1) A Michigan sales tax license shall be obtained by every person selling tangible personal property at retail. A person shall not engage or continue in a business taxable under the sales tax law without securing a license, regardless of the amount of sales or the manner of obtaining goods for sale. An application for a license, before or at the time of beginning business, shall be made to the Michigan department of treasury on a form prescribed by the Michigan department of treasury. All licenses shall be displayed on the licensed premises.

(2) Every sales tax license expires on September 30 of each year, regardless of the date the license is issued, and shall be renewed by furnishing such information as the Michigan department of treasury may require. A person selling at retail at more than 1 location or place of business shall display a copy of the license at each location. If a valid license is lost or destroyed, it may be replaced without charge by notifying the Michigan department of treasury.

(3) A license is not transferable and a new license shall be secured immediately whenever there is a change of ownership of the business. For example, if a partner is added or dropped, or if a corporation is formed or dissolved, this constitutes a change of ownership necessitating application in the name of the new ownership for a sales tax license to sell at retail. If the new owner fails to apply for a license, the new owner may be subjected to penalty for operating without a valid sales tax license.

(4) The fact that a person is licensed by the Michigan department of treasury to sell at retail does not automatically mean that sales to the licensed person are exempt from sales tax as sales for resale.

(5) The Michigan department of treasury may deny a license to an applicant if the department considers the applicant to be the agent or representative of a principal required to be licensed and responsible for filing the sales tax returns.

(6) The Michigan department of treasury may require an applicant for a sales tax license to submit a surety bond.

R 205.5 Rescinded.

R 205.8 Consumer; use; conversion.

Rule 8. (1) "Consumer" means a person who, for consideration, acquires tangible personal property for storage, use, or other consumption in this state, whether acquired in person, through the mail or catalog, over the Internet, or by other means. A consumer includes, but is not limited to the following:

(a) A person who acquires tangible personal property if engaged in the business of constructing, altering, repairing, or improving the real estate of others.

(b) A person who converts tangible personal property or services that were exempt from sales or use tax, to a use that is not exempt from tax.

(2) The buyer who disposes of goods in any other manner than by resale becomes the final consumer. The final consumer is the last person in a chain of transactions to acquire the goods. The seller, who is the taxpayer under the general sales tax act, is also the consumer when either of the following occurs:

(a) The seller removes goods from inventory for personal use or consumption, or in the conduct of the seller's business, and would be liable for use tax on the removed goods.

(b) The seller converts tangible personal property acquired for a use exempt from tax to a use not exempt from tax, and would be liable for use tax on the converted tangible personal property.

(3) "Use" means the exercise of a right or power over tangible personal property incident to the ownership of that property, including transfer of the property in a transaction where possession is given.

(4) Converting tangible personal property acquired for a use exempt from tax to a use not exempt from tax is a taxable use.

R 205.9 Rescinded.

R 205.15 Trade-in deduction.

Rule 15. (1) No deduction from the sales price of a retail sale is permitted for any credit allowed by the seller for a trade-in taken in exchange or partial payment and the tax applies to the full selling price. Both of the following are examples:

Example 1: A customer purchases a vehicle with a sticker price of \$20,000.00. The dealer (seller) and the customer negotiate a selling price of \$18,500.00. The customer also has a vehicle to trade in. The dealer credits the customer \$2,500.00 for the vehicle traded in. No deduction is allowed for the vehicle taken in trade on such transaction. Tax is due on the total amount of the sale (\$18,500.00), without regard to the trade-in amount.

Example 2: A customer purchases an LP tank filled with propane gas for the sales price of \$49.95. Tax is due on the sales price of \$49.95. Months later, the customer returns for more propane gas, trades in an empty LP tank and receives an LP tank full of propane gas. The customer is charged \$24.95, and the seller credits the customer \$25.00 for the empty LP tank traded in. No deduction is allowed for the empty LP tank taken in trade on such transaction. Tax is due on the total amount of \$49.95 (\$24.95 plus \$25.00), without reduction for the trade-in amount.

If tangible personal property acquired by the seller through a trade-in is sold, then the sale of that tangible personal property is subject to sales tax on the full sales price.

(2) A used part received by the seller as consideration for a sale at retail is considered a trade-in. In the automotive parts industry a used part traded in is commonly referred to as a "core."

(3) Sellers of automotive parts shall remit sales tax on the total sales price, which includes the value placed on the used part traded in (core) and the part sold. No refund or reduction of tax is permitted based on any payment or credit given to a customer for a part traded in (core) by the customer. It makes

no difference whether the part traded in (core) is presented at the time of purchase or presented at a later time for refund or credit. The following is an example:

Example: When a part (such as a battery or an alternator) is sold, the seller often separately itemizes the sales price of the part sold and the value of the customer's used part that may be traded in (core). Tax is due on the total amount received by the seller for the part sold, whether received from the customer as all cash, or cash and trade-in value in the form of a used part (core).

For instance, the part sold is an alternator listed as selling for \$69.99 plus a \$40.00 trade-in (core) charge. The total taxable cost of the alternator sold is \$109.99, whether the customer paid with \$109.99 in cash, or \$69.99 cash together with a used alternator (core) valued at \$40.00. The used alternator traded in (core) is considered a credit or property received in consideration of a sale at retail (a \$40.00 value) toward the purchase of the alternator sold, without which the price to purchase the alternator would be \$109.99. There is no credit or refund of sales tax on the \$40.00 value attributed to the used alternator traded in (core). Tax is due on the total sales price of \$109.99, which is the listed price of the alternator (\$69.99) plus the value of the used alternator (\$40.00).

R 205.16 Returned goods.

Rule 16. (1) The term "returned goods" does not include repossession or recapture of merchandise by legal process, abandonment of contract, voluntary surrender of goods without a refund, or credit being given for the amount paid, or goods accepted in trade or barter.

(2) If the seller provides a full refund or credit of the purchase price of the returned goods and provides a full refund or credit of tax on the purchase price, the seller may claim a refund or credit of the tax paid to the Michigan department of treasury within 4 years of the date set for the filing of the original return for the period in which the tax was due.

(3) If the seller provides a partial refund or credit on returned goods within the time period for returns stated in the seller's refund policy or 180 days after the initial sale, whichever is sooner, the seller shall refund tax on that portion of the purchase price that was refunded or credited. The seller may claim a refund of the tax paid to the Michigan department of treasury on that portion of the purchase price that was refunded or credited to the seller's customer. The seller's claim for refund must be submitted to the Michigan department of treasury within 4 years of the date set for the filing of the original return for the period in which the tax was due.

(4) A refund or credit of tax shall not be given on goods returned to the seller for a refund or exchange without proof that Michigan tax was paid on the original sale.

(5) A rehandling or restocking charge by the seller in connection with returned goods is not a reduction of the purchase price for refund purposes unless the charge includes cost attributable to use of the returned goods by the purchaser.

(6) Credits or refunds of tax are allowed for motor vehicles returned to a manufacturer under 1986 PA 87, MCL 257.1401 to 257.1410, less allowances for use certified by the manufacturer on a form provided by the Michigan department of treasury.

R 205.20 General application.

Rule 20. The administrative rules must be read and interpreted in their entirety, taking into account the effect of all pertinent legislation, rules, and court decisions.

R 205.22 Discounts generally; discounts on certain motor vehicle sales.

Rule 22. (1) Cash, trade, and quantity discounts given directly by a seller to a purchaser are deductible in arriving at the net sales price which is subject to tax. Such discounts must appear on the invoices, records, and accounts of the seller and be substantiated to the satisfaction of the Michigan department of treasury.

(2) Trade and quantity discounts given directly by a seller are usually known and available to the purchaser at the time of sale and are deductible immediately on the invoice before determining the tax. A cash discount that is offered by the seller as an inducement for payment within a specified time shall not be deducted by the seller until it has been given to the purchaser. Such discounts will be allowed as a deduction on the seller's tax return when there is sufficient evidence in the records of the seller to indicate that such discounts have been the regular policy of the seller and have been given to the purchaser.

(3) A discount or instant rebate offered directly by a seller (without reimbursement by a third party) reduces the sales price and reduces the tax base of a sale at retail. A customer receiving a discount or rebate offered directly by a seller after the time of sale, through the mail or other means, may seek from the seller a refund of sales tax paid on the discount or rebate amount.

(4) A discount or rebate does not reduce the sales price and does not reduce the tax base of a sale at retail, and is subject to tax, when all the following conditions are met:

(a) The seller receives consideration from a party other than the purchaser (for example, from a manufacturer) and the consideration is directly related to the price reduction or discount.

(b) The seller is obligated to pass the price reduction or discount through to the purchaser.

(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser.

(d) The purchaser presents documentation to the seller to claim a price reduction or discount granted by a third party with the understanding that the third party will reimburse any seller to whom the documentation is presented, or the purchaser identifies himself/herself as a member of a group or organization entitled to a reduction or discount, or the price reduction or discount is identified as a third party reduction or discount on the invoice received by the purchaser or on documentation presented by the purchaser.

If any of the conditions in subdivision ((a), (b), (c), or (d)) of this subrule is not met, the amount of the discount or rebate is not included in sales price or in the tax base of the sale at retail, and is not subject to tax.

(5) For the sale of a motor vehicle, a discount given to a purchaser because of the purchaser's status as a current employee, where the amount of the discount is reimbursed to the seller by a third party, is not included in sales price and is not subject to tax. Retired employees, laid-off employees, and relatives of an employee are not considered current employees.

(6) For the sale of a motor vehicle to a purchaser who is a member of a group designated by an automobile manufacturer as entitled to a price identified on the manufacturer's invoice to the automobile dealer that the manufacturer requires the dealer charge the purchaser (who is not an employee of that automobile manufacturer), where the dealer/seller is reimbursed by the manufacturer for the discount or price reduction given to the purchaser, and where the dealer/seller did not reimburse itself by adding sales tax on that portion of the sales price received from the manufacturer, the dealer/seller may do either of the following:

(a) Calculate a credit and seek a refund from the Michigan department of treasury under MCL 205.182 in an amount equal to 6% of the consideration received from the manufacturer in reimbursement for the discount or price reduction given to the purchaser.

(b) Apply the credit and refund identified in subdivision (a) of this subrule to reduce the dealer/seller's sales tax due.

(7) The amount of the credit or refund shall not exceed the actual amount of sales tax paid by the dealer/seller on that portion of the sales price received by the dealer/seller from the automobile manufacturer.

R 205.23 Rescinded.

R 205.26 Use tax registration.

Rule 26. (1) Activities that require a registration under the use tax act include, but are not limited to, all of the following:

(a) An out-of-state seller, not registered as a retailer under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78 having nexus with this state.

(b) A business in this state buying tangible personal property from non-registered sellers.

(c) A lessor of tangible personal property when rental receipts are taxable under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

(d) A provider of intrastate telecommunications services having nexus with this state.

(e) A provider of interstate telecommunications services having nexus with this state.

(f) A provider of rental accommodations to the public.

(g) A provider of laundering or textile cleaning service under a sale, rental, or service agreement with a term of at least 5 days having nexus with this state.

(2) A use tax registration shall be obtained using a form prescribed by the Michigan department of treasury.

(3) A use tax registration is not transferable from one ownership to another. For example, if a partner is added or dropped, or if a corporation is formed or dissolved, this constitutes a change in ownership necessitating an application in the name of the new ownership for another registration.

(4) Registration under the use tax act requires the filing of monthly, quarterly, or annual tax returns on forms furnished by the Michigan department of treasury. Filing by electronic means, by accelerated filing, or by other methods approved by the Michigan department of treasury may be required. Failure to register and file returns may subject the taxpayer to penalties.

R 205.28 Use tax included in gross proceeds.

Rule 28. The use tax act requires a seller to collect use tax as a separate line item and prohibits the inclusion of such charge as part of the sales price or purchase price.

SPECIFIC SALES AND USE TAX RULES

R 205.136 Food for human consumption.

Rule 86. (1) Retail sales of food for human consumption normally considered as grocery items for home consumption are tax exempt.

(2) Alcoholic beverages (containing $\frac{1}{2}$ of 1% or more of alcohol by volume) such as beer, wine, and liquor, are subject to tax.

(3) Tobacco and tobacco products are subject to tax.

(4) "Prepared food" is subject to tax. All of the following apply:

(a) "Prepared food" means any of the following:

(i) Food sold in a heated state or that is heated by the seller.

(ii) Two or more food ingredients mixed or combined by the seller for sale as a single item.

(iii) Food sold with eating utensils provided by the seller.

- (b) "Prepared food" does not include any of the following:
- (i) Food that is only cut, repackaged, or pasteurized by the seller.
 - (ii) Raw eggs, fish, meat, poultry, and foods containing those raw items requiring cooking.
 - (iii) Food sold in an unheated state by weight or volume as a single item, without eating utensils. The following are used to determine weight or volume:
 - (A) Weight is a measure of heaviness, expressed in units such as pounds or grams.
 - (B) Volume is a 3-dimensional measure, expressed in units such as pints, quarts, cubic centimeters, or liters.
 - (C) An item is sold by weight or volume when the sales price is determined by multiplying its per unit price by the item's weight or volume.
 - (iv) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, doughnuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas, sold without eating utensils.
- (5) An eating utensil is considered a tool, instrument, or item used or intended to be used to facilitate the eating of food. Examples of eating utensils include, but are not limited to, knives, forks, spoons, ice cream/popsicle sticks, skewers, glasses, cups, napkins, straws, and plates. The following apply:
- (a) An eating utensil does not include a container or packaging used to transport food, such as a plastic carton in which take-out soup or salad is sold. A waxed paper sheet used to select an item, such as a donut or cookie, and then placed in a box or bag for transport with the baked good, is not considered an eating utensil.
 - (b) Eating utensils are "provided by the seller" under all of the following conditions:
 - (i) For a seller with a prepared food sales percentage greater than 75%, eating utensils are "provided by the seller" when the utensils are made available to purchasers.
 - (ii) For a seller with a prepared food sales percentage of 75% or less, eating utensils are "provided by the seller" if the seller's practice, as represented by the seller, is to physically give or hand the utensils to purchasers. Plates, bowls, glasses, or cups necessary for the purchaser to receive the food, for example, a glass for a dispensed soft drink or milk, or a plate for salad from a salad bar, need only be made available.
 - (iii) A seller's "prepared food sales percentage" is a fraction determined by dividing the following described numerator by the following described denominator:
 - (A) The numerator shall consist of the seller's annual sales of all of the following:
 - (1) Food sold in a heated state or heated by the seller.
 - (2) Two or more food ingredients mixed or combined by the seller for sale as a single item, not including food items specifically excluded in subrule (4)(b) of this rule.
 - (3) Food where plates, bowls, glasses, or cups are necessary to receive the food, for example, dispensed soft drink or milk, or salad bar.
 - (B) The denominator shall consist of the seller's total annual sales of all food and food ingredients at the establishment including prepared food, candy, dietary supplements, and soft drinks.
 - (C) Sales of alcoholic beverages are not included in the numerator or denominator.
 - (c) For a seller with a prepared food sales percentage greater than 75% who sells an item that contains 4 or more servings packaged as 1 item sold for a single price, that item does not become prepared food due to the seller having utensils available. Both of the following shall apply:
 - (i) If the seller provides utensils for that item as in subdivision (b) of this subrule, then the item is considered prepared food.
 - (ii) Whenever available, serving sizes shall be determined based on a label on an item sold. If no label is available, then a seller shall reasonably determine the number of servings in an item.
 - (d) When a seller sells a food item that has a utensil placed in the package by a person other than the seller, both of the following shall apply:

(i) If that person's North American Industry Classification System (NAICS) classification code is that of manufacturer (sector 311), the seller is not considered to have provided the utensil except as provided in subdivisions (a), (b) and (d) of this subrule.

(ii) For any other packager with any other NAICS classification code, for example, sector 722 for caterers, the seller is considered to have provided the utensil.

(e) The prepared food sales percentage shall be calculated by a seller for each tax year or business fiscal year, based on the seller's data from the prior tax year or business fiscal year, as soon as possible after accounting records are available, but not later than 90 days after the beginning of the seller's tax year or business fiscal year.

(f) A single prepared food sales percentage shall be determined annually, for all of the seller's establishments in this state.

(g) A new business shall make a good faith estimate of its prepared food sales percentage for its first year. A new business shall adjust its good faith estimate prospectively after the first 3 months of operation if actual prepared food sales percentages materially affect the 75% threshold test.

(6) Examples of nontaxable food items sold without eating utensils by a grocer or other food retailer for human consumption include, but are not limited to, the following:

- (a) Baked goods and baking ingredients.
- (b) Bouillon and soups.
- (c) Butter, margarine, and peanut butter.
- (d) Candy, chocolate, and confectionery.
- (e) Carbonated beverages (bottle deposits are not subject to tax).
- (f) Cereal and cereal products.
- (g) Chewing gum, non-medicated.
- (h) Cocktail mixes, dry or liquid.
- (i) Coffee, coffee substitutes, coffee beans, and tea (loose or bags).
- (j) Condiments, relishes, and spices.
- (k) Diet food, dietary supplements (identified as a dietary supplement in the supplemental facts box on the label, and containing a vitamin, mineral, herb or other botanical, or amino acid), energy drinks, and health foods.
- (l) Eggs and egg products.
- (m) Extracts and flavoring as an ingredient of food products.
- (n) Fruit and fruit products.
- (o) Gelatin.
- (p) Ice, only when to be ingested by humans.
- (q) Ice cream, sherbets, and toppings.
- (r) Meat and meat products.
- (s) Milk and milk products.
- (t) Powdered drink mixes, pre-sweetened or natural.
- (u) Pre-packaged snack foods such as, crackers, potato chips, and popcorn.
- (v) Shortening.
- (w) Vegetables and vegetable products.
- (x) Vitamins and vitamin drinks.
- (y) Water, bottled.

(7) Examples of items subject to tax include, but are not limited to, the following:

- (a) Alcoholic beverages (containing $\frac{1}{2}$ of 1% or more of alcohol by volume).
- (b) Animal and pet foods.
- (c) Animal bait such as, carrots, sugar beets, corn.

- (d) Cough drops and cough syrup.
- (e) Decorative gourds and jack-o-lanterns.
- (f) Ice not for ingestion by humans, such as for use in a cooler or an ice chest.
- (g) Medicated chewing gum.
- (h) Salt blocks.
- (i) Toothpaste and mouthwash.
- (j) Throat lozenges.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

BUREAU OF HEALTH CARE SERVICES - RADIATION SAFETY SECTION

IONIZING RADIATION RULES – PART 14. MAMMOGRAPHY

Filed with the Secretary of State on April 17, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by section 13521, 1978 PA 368, MCL 333.13521 and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2011-4 being MCL 330.3101, 445.2001, 445.2011, and 445.2030)

R 325.5601, R 325.5602, R 325.5603, R 325.5605, R 325.5607, R 325.5608, R 325.5610, R 325.5611, R 325.5612, R 325.5613, R 325.5637, R 325.5655, and R 325.5656 of the Michigan Administrative Code are amended, and R 325.5601a, R 325.5626, R 325.5627, R 325.5628, R 325.5629, R 325.5630, R 325.5634, R 325.5635, R 325.5657, R 325.5658, R 325.5667, R 325.5668, R 325.5674, R 325.5675, R 325.5676, R 325.5677, R 325.5678, R 325.5679, R 325.5680, R 325.5681, R 325.5682, R 325.5683, R 325.5684, R 325.5685, R 325.5686, R 325.5687, R 325.5688, R 325.5689, R 325.5690, R 325.5691, R 325.5692, R 325.5693, R 325.5694, R 325.5695, R 325.5696, R 325.5697, and R 325.5698 are added to the Code, and R 325.5617, R 325.5618, R 325.5619, R 325.5621, R 325.5622, R 325.5623, R 325.5624, R 325.5625, R 325.5631, R 325.5632, R 325.5633, R 325.5638, R 325.5639, R 325.5640, R 325.5641, R 325.5642, R 325.5643, R 325.5644, R 325.5645, R 325.5646, R 325.5647, R 325.5648, R 325.5649, R 325.5650, R 325.5651, R 325.5652, R 325.5659, R 325.5660, R 325.5661, R 325.5662, R 325.5663, R 325.5664, and R 325.5665 are rescinded as follows:

GENERAL PROVISIONS

R 325.5601 Purpose and scope.

Rule 601. (1) This part establishes requirements governing the use of x-radiation for mammography and applies to all persons who use x-radiation for mammography for the intentional exposure of humans. A person shall not use a radiation machine to perform mammography unless the radiation machine is registered with the department pursuant to R 325.5181 to R 325.5196 and is specifically authorized to perform mammography pursuant to the act.

(2) In addition to the requirements of this part, all persons are subject to all applicable provisions of R 325.5001 to R 325.5721.

(3) A facility shall not misrepresent to its employees, to the public, or to the department its status with respect to accreditation of the mammography equipment by the American college of radiology, department authorization to perform mammography, or compliance with department rules.

R 325.5601a Adoption by reference.

Rule 601a. Some of these rules refer to all or parts of the following nationally recognized standards, which are adopted by reference and identified by date:

(a) Standards of the United States department of health & human services, title 21 - food and drugs, part 900 - mammography. These standards are available for no cost from either of the following sources:

(i) The website of the Michigan department of licensing and regulatory affairs, radiation safety section at <http://www.michigan.gov/rss>

(ii) The website of the United States department of health & human services, mammography quality standards act and program at <http://www.fda.gov/Radiation-EmittingProducts/MammographyQualityStandardsActandProgram/default.htm>

(b) The regulations in 21 C.F.R. 1020.30, "Diagnostic x-ray systems and their major components" (April 2007), and 21 C.F.R. 1020.31, "Radiographic equipment" (June 2005). These regulations are available for no cost from either of the following sources:

(i) The website of the Michigan department of licensing and regulatory affairs, radiation safety section at <http://www.michigan.gov/rss>

(ii) The website of the United States department of health & human services, U.S. Food and Drug Administration at <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/cfrsearch.cfm>

(c) Criteria of the American college of radiology, "Mammography Accreditation Program Requirements" (May 2012), and "Stereotactic Breast Biopsy Accreditation Program Requirements" (May 2012). These criteria are available for no cost from either of the following sources:

(i) The website of the Michigan department of licensing and regulatory affairs, radiation safety section at <http://www.michigan.gov/rss>.

(ii) The website of the American college of radiology at <http://www.acr.org>.

R 325.5602 Definitions.

Rule 602. (1) As used in this part the definitions in 21 C.F.R. 900.2, "Definitions" (2002), are adopted by reference with the exception of the definition of "mammography."

(2) As used in this part the following definitions apply:

(a) "Act" means 1978 PA 368, as amended, MCL 333.1101 to 333.25211.

(b) "Annual" means a period of 12 consecutive months.

(c) "Interpreting physician" means a physician who interprets mammograms and who meets the requirements of R 325.5627 to R 325.5629.

(d) "Mammography" means radiography of the breast for the purpose of enabling a physician to determine the presence, size, location, and extent of cancerous or potentially cancerous tissue in the breast. Mammography includes interventional mammography.

(e) "Stereotactic breast biopsy" means the imaging of a breast performed in at least 2 planes to localize a target lesion during invasive interventions for biopsy procedures.

(f) "Stereotactic breast biopsy physician" means a physician licensed under article 15 of the act who conducts stereotactic breast biopsy.

(3) The terms defined in the act shall have the same meanings when used in these rules.

R 325.5603 Department inspections.

Rule 603. (1) The department shall inspect a mammography machine and system not later than 60 days after initial mammography authorization is issued. After that initial inspection, the department shall annually inspect the mammography machine and system. The department may inspect more frequently than annually.

(2) After each satisfactory inspection by the department, the department shall issue a certificate of radiation machine inspection which identifies the facility and the machine inspected and which provides

a record of the date that the machine was inspected. The facility shall conspicuously post the certificate on or near the inspected machine and in a location that is observable by patients.

(3) The department may issue a notice of violations certificate if violations found during an inspection are not corrected within the specified time limit or if the department has not received written verification of corrections within the specified time limit. The notice of violations certificate shall be conspicuously posted on or near the inspected machine and in a location observable by patients.

(4) A facility shall remove the certificate of radiation machine inspection if directed by the department due to subsequent failure to comply with this part and applicable provisions of R 325.5001 to R 325.5721 as determined by follow-up inspections by the department.

(5) In conducting inspections, the department shall have access to all equipment, materials, records, personnel, and information that the department considers necessary to determine compliance with these rules. The department may copy, or require the facility to submit to the department, any of the materials, records, or information considered necessary to determine compliance with these rules.

(6) The department shall designate department employees to conduct regulatory inspections.

(7) The department may conduct tests and evaluations as the department deems appropriate to determine compliance with all of the provisions of this part and the provisions of R 325.5001 to R 325.5721.

MAMMOGRAPHY AUTHORIZATION

R 325.5605 Standards for authorization.

Rule 605. The department shall issue a 3-year mammography authorization if the mammography facility is in compliance with all of the following standards:

(a) The radiation machine meets any of the following requirements:

(i) The machine and the facility in which the machine is used meet the criteria for the American college of radiology mammography accreditation program dated May 2012, and the facility submits an evaluation report issued by the American college of radiology as evidence that the criteria are met. The criteria are adopted by reference in these rules for the purpose of applying this paragraph only.

(ii) A machine used for stereotactic breast biopsy and the facility in which the machine is used meet the criteria of the American college of radiology stereotactic breast biopsy accreditation program dated May 2012, and the facility submits an evaluation report issued by the American college of radiology as evidence that the criteria are met. The criteria are adopted by reference in these rules for the purpose of applying this paragraph only. A mammography machine that uses a specially designed add-on device for breast biopsy shall be authorized for both mammography and stereotactic breast biopsy.

(iii) The machine is used in a facility that has successfully completed the department's evaluation of the items described in R 325.5610.

(b) The radiation machine, the film or other image receptor that is used with the machine, and the facility where the machine is used comply with the requirements of this part and applicable provisions of R 325.5001 to R 325.5721.

(c) The radiation machine is specifically designed to perform mammography.

(d) The radiation machine is used exclusively to perform mammography.

(e) The radiation machine is used in a facility that, before the machine is used on patients and at least annually thereafter, has a qualified medical physicist provide on-site consultation to the facility as described in these rules. Records and findings of on-site consultations shall be maintained for not less than 7 years.

(f) The radiation machine is used according to R 325.5667 of this part or R 325.5690 for stereotactic breast biopsy.

(g) The radiation machine is operated only by an individual who can demonstrate to the department that he or she meets the standards described in this part.

R 325.5607 Application.

Rule 607. (1) An applicant who seeks mammography authorization shall apply to the department using an application form that is supplied by the department. If mammography is performed at more than 1 address, a separate application shall be used for each address. An applicant shall accurately provide all information that is requested on the form. The information submitted as part of the application shall be sufficient, as determined by the department, to address all of the standards for authorization. Applications that do not provide sufficient information shall be returned to the applicant for completion and resubmission. Applications shall include all of the following information:

- (a) Information about the facility, including all of the following:
 - (i) Mammography facility name, address, and telephone number.
 - (ii) Type of practice.
 - (iii) The facility registration number, if currently registered.
 - (iv) A contact person's name and telephone number.
 - (b) Personnel information, including the education, training, experience, and certification of the lead interpreting physician, any qualified medical physicist who provides on-site consultation, and any radiologic technologist who performs mammography.
 - (c) Mammography machine technical information, including all of the following:
 - (i) Machine registration number, if currently registered.
 - (ii) Manufacturer.
 - (iii) Model.
 - (iv) Target material.
 - (v) Filter material.
 - (d) Imaging system information, including all of the following:
 - (i) The type of imaging system being used.
 - (ii) Review workstation monitor information, if the machine uses digital imaging.
 - (iii) Laser printer information, as applicable, for machines using digital imaging.
 - (iv) Film and screen information, if the machine uses screen-film imaging.
 - (v) Film processor information, if the machine uses screen-film imaging.
 - (e) The date of the most recent medical physicist survey.
- (2) The department shall respond to an application within 30 days after the date of receipt of the application.

R 325.5608 Application fee schedule; waiver.

Rule 608. (1) An application form for mammography authorization shall be accompanied by a nonrefundable payment, in full, by the applicant, for department evaluation of compliance with the provisions of R 325.5605(a). The fee schedule is specified in the act.

(2) If an applicant for mammography authorization submits an evaluation report which is issued by the American college of radiology and which demonstrates compliance with the provisions of R 325.5605(a), then the fee for department evaluation of compliance with the provisions of R 325.5605(a) shall be waived.

R 325.5610 Supplemental machine information; effect of failure to submit information.

Rule 610. (1) Upon notice from the department that an application for mammography authorization is complete and complies with these rules and at the specific request of the department, the applicant shall, within 45 days of the department's request, provide all of the following information for each radiation machine for which mammography authorization is being sought:

- (a) Confirmation that a department-approved mammography phantom is on-site when mammography is performed and is used in the facility's ongoing quality control program.
- (b) Processor or laser film printer quality control data and corrective actions, if any, taken as a result of that data for a 30-day period beginning after the date the application was sent to the department.
- (c) An x-ray image of a department-approved mammography phantom which is taken during the 30-day period for which processor quality control data is required under subdivision (b) of this subrule. The phantom image shall be taken using routine machine settings being used by the facility for that mammography machine for a 4.2-centimeter compressed breast of average density. The phantom image shall be accompanied by documentation of the date that the image was taken and the machine settings that were used.
- (d) Determinations of the half-value layer, radiation exposure at skin entrance, and mean glandular dose that are made with the use of a department-approved dosimetry device exposed on the phantom during the same exposure of the phantom that is used to produce an x-ray image to be submitted under subdivision (c) of this subrule or that are made by other methods as specified or approved by the department.
- (e) A set of clinical images produced on or after the date that the application was sent to the department. Mammography images shall be without pathology for each of 2 representative patients, 1 with dense breasts and 1 with fatty breasts. Stereotactic breast biopsy images shall be from 1 calcification biopsy case that demonstrates accurate needle location and includes the case's corresponding mammograms. The submitted images shall meet all of the following:
 - (i) The cases are examples of the facility's best work.
 - (ii) The images are from actual patients.
 - (iii) Both screen-film and digital images are labeled with the identification information required in R 325.5657 for mammography images or R 325.5683 for stereotactic breast biopsy images.
 - (iv) The lead interpreting physician reviews and approves the clinical images.
- (2) The department may waive the requirements of subrule (1) of this rule if the mammography machine is accredited, or is in the process of becoming accredited, by the American college of radiology. To have the requirements of subrule (1) of this rule waived, an applicant shall provide, to the department, within 45 days of the department's request, copies of the applicant's current accreditation application, current accreditation-related correspondence to and from the American college of radiology, or current accreditation certificate that is issued by the American college of radiology.
- (3) Failure of an applicant to submit the information required by the provisions of either subrule (1) or (2) of this rule within 45 days of the department's request may be considered a basis for withdrawal or denial of the mammography authorization, unless the time limit is extended by the department for cause.

R 325.5611 Contracts for technical evaluation.

Rule 611. (1) In evaluating clinical image quality and acceptability for mammography authorization, upon receipt of the information required in R 325.5610(1)(e), the department may enter into any necessary contracts with mammography experts, submit the images to those experts for technical evaluation, and rely upon their expert evaluation in arriving at a department conclusion regarding image quality and acceptability in terms of granting or not granting mammography authorization.

- (2) Technical parameters that are used in evaluating clinical image quality and acceptability pursuant to subrule (1) of this rule shall include judgments of all of the following:
 - (a) Positioning.
 - (b) Compression.
 - (c) Radiation exposure and dose level.
 - (d) Sharpness.
 - (e) Contrast.

- (f) Noise.
- (g) Exam identification.
- (h) Artifacts.

R 325.5612 Notice of change in application information; authorization not transferable.

Rule 612. (1) A facility that is authorized to perform mammography shall notify the department, in writing, of any change in the information contained in the application or supporting material upon which authorization was granted or any change that affects the accuracy of information which is provided or obtained during the application and evaluation process for authorization. Changes that shall be reported include changes in any of the following:

- (a) Facility ownership.
- (b) Facility location.
- (c) Mammography machine.
- (d) Image modality.
- (e) American college of radiology accreditation status.

(2) Upon receipt of a notice of change, the department shall advise the facility if reapplication for mammography authorization, resubmittal of phantom or clinical images, or other actions are deemed by the department to be necessary to establish that the facility, machine, system, and personnel remain in compliance with the requirements of these rules. Upon department request, a facility shall provide any requested information or materials within 45 days after the request is made.

(3) If changes in information are deemed to require reapplication for mammography authorization, the application shall be filed and processed in the same manner as set forth in R 325.5607 and R 325.5608.

(4) Mammography authorization that is issued by the department is not transferable between machines or between persons who own or lease a radiation machine.

R 325.5613 Authorization withdrawal; reinstatement.

Rule 613. (1) Three-year mammography authorization is subject to continued compliance with this part and the provisions of R 325.5001 to R 325.5721. Authorization may be withdrawn based on evidence of noncompliance with this part and the provisions of R 325.5001 to R 325.5721 in accordance with the provisions of 1969 PA 306, MCL 24.201 to 24.328.

(2) If the department withdraws the mammography authorization of a machine, the machine shall not be used for mammography. An application for reinstatement of a mammography authorization shall be filed and processed in the same manner as an application for mammography authorization under R 325.5607 and R 325.5608.

(3) The department shall not issue a reinstated mammography authorization until the department receives the reinspection fee, inspects the machine, and determines that the facility meets the standards in R 325.5605.

MAMMOGRAPHY SUPERVISOR

R 325.5617 Rescinded.

R 325.5618 Rescinded.

R 325.5619 Rescinded.

R 325.5621 Rescinded.

R 325.5622 Rescinded.

R 325.5623 Rescinded.

R 325.5624 Rescinded.

R 325.5625 Rescinded.

PERSONNEL

R 325.5626 Scope of personnel requirements.

Rule 626. The requirements of R 325.5627 to R 325.5634 apply to all personnel involved in any aspect of mammography, including but not limited to, the production, processing, and interpretation of mammograms and related quality assurance activities.

R 325.5627 Interpreting physician initial qualifications.

Rule 627. Before beginning to interpret mammograms independently, an interpreting physician shall meet all of the following requirements:

- (a) Be licensed as a physician or osteopathic physician under article 15 of the act to practice medicine.
- (b) Meet either of the following requirements:
 - (i) Be certified in radiology or diagnostic radiology by the American board of radiology, the American osteopathic board of radiology, or the royal college of physicians and surgeons of Canada; have been eligible for certification in radiology or diagnostic radiology for not more than 2 years; or, be certified or determined to be qualified in radiology or diagnostic radiology by another professional organization determined by the department to have procedures and requirements adequate to ensure that physicians certified by the body are competent to interpret radiological procedures, including mammography.
 - (ii) If the physician has been eligible for certification in radiology or diagnostic radiology for less than 2 years, he or she shall have had at least 3 months of documented formal training in the interpretation of mammograms and in topics related to mammography. The training shall include instruction in radiation physics, including radiation physics specific to mammography, radiation effects, and radiation protection. The mammographic interpretation component of the training shall be under the direct supervision of a physician who meets the requirements of this rule.
- (c) Have a minimum of 60 hours of documented medical education in mammography, including instruction in the interpretation of mammograms and education in basic breast anatomy, pathology, physiology, technical aspects of mammography, and quality assurance and quality control in mammography. All 60 of these hours shall be category 1 and at least 15 of the category 1 hours shall have been acquired within the 3 years immediately prior to the date that the physician qualifies as an interpreting physician. Hours spent in residency specifically devoted to mammography are considered as equivalent to category 1 continuing education credits and shall be accepted if documented in writing by the appropriate representative of the training institution. A physician who meets the board certification requirements of subdivision (b)(i) of this rule is deemed to have met this requirement.
- (d) Have interpreted or multi-read at least 240 mammographic examinations within the 6-month period immediately prior to the date that the physician qualified as an interpreting physician. The interpretation or multi-reading shall be under the direct supervision of an interpreting physician. A physician who becomes appropriately board certified at the first allowable time, as defined by an eligible certifying body, shall have interpreted or multi-read at least 240 mammographic examinations under the direct supervision of an interpreting physician in any 6-month period during the last 2 years of

a diagnostic radiology residency. A physician who was qualified to interpret mammograms prior to the effective date of this rule is considered to have met the requirements of this subdivision.

R 325.5628 Interpreting physician continuing experience and education.

Rule 628. An interpreting physician shall maintain his or her qualifications by meeting the continuing experience and education requirements of 21 C.F.R. 900.12(a)(1)(ii), “Personnel – Interpreting physicians – Continuing experience and education” (2000).

R 325.5629 Interpreting physician reestablishment of qualifications.

Rule 629. An interpreting physician who failed to maintain the required continuing experience or continuing education requirements of R 325.5628 shall reestablish his or her qualifications before resuming the independent interpretation of mammograms by meeting the reestablishing qualifications requirements of 21 C.F.R. 900.12(a)(1)(iv), “Personnel – Interpreting physicians – Reestablishing qualifications” (2000).

R 325.5630 Radiologic technologists.

Rule 630. All mammographic examinations shall be performed by a radiologic technologist who meets the general requirements, mammography requirements, continuing education requirements, and continuing experience requirements of 21 C.F.R. 900.12(a)(2), “Radiologic technologists” (2000), with the exception of 21 C.F.R. 900.12(a)(2)(i)(A).

RADIATION PHYSICIST

R 325.5631 Rescinded.

R 325.5632 Rescinded.

R 325.5633 Rescinded

R 325.5634 Medical physicists.

Rule 634. A medical physicist who conducts surveys of mammography facilities and provides oversight of a facility’s quality assurance program shall meet the initial qualifications, continuing qualifications and reestablishing qualification requirements of 21 C.F.R. 900.12(a)(3), “Medical physicists” (2000).

R 325.5635 Retention of personnel records.

Rule 635. A mammography facility shall maintain records to document the qualifications of all personnel who work at the facility as interpreting physicians, radiologic technologists, or medical physicists. These records shall be made available for review during department inspections. Records of personnel no longer employed by the mammography facility shall be kept on file until the next inspection following the employee’s termination has been completed, and the department determines that the facility complies with the personnel requirements.

X-RAY EQUIPMENT

R 325.5637 X-ray equipment; requirements.

Rule 637. (1) The mammographic x-ray equipment shall be maintained in compliance with the applicable regulations in 21 C.F.R. 1020.30, “Diagnostic x-ray systems and their major components” (2007), and 21 C.F.R. 1020.31, “Radiographic equipment” (2005).

(2) The mammography machine, x-ray film, intensifying screens, film processing solutions, film illumination, and film masking devices shall meet the requirements of 21 C.F.R. 900.12(b), “Equipment” (2000).

R 325.5638 Rescinded.

R 325.5639 Rescinded.

R 325.5640 Rescinded.

R 325.5641 Rescinded.

R 325.5642 Rescinded.

R 325.5643 Rescinded.

R 325.5644 Rescinded.

R 325.5645 Rescinded.

R 325.5646 Rescinded.

R 325.5647 Rescinded.

R 325.5648 Rescinded.

R 325.5649 Rescinded.

R 325.5650 Rescinded.

R 325.5651 Rescinded.

R 325.5652 Rescinded.

R 325.5655 Enclosure requirements; use of mobile equipment.

Rule 655. (1) A fixed x-ray equipment enclosure shall comply with the requirements of R 325.5331.

(2) For mammography, the operator's barrier shall provide radiation protection that is equivalent to not less than 0.5 millimeter of lead when the maximum tube potential is less than or equal to 35 kilovolts and 0.8 millimeter of lead when the maximum tube potential is greater than 35 kilovolts.

(3) An individual operating a mobile or portable mammography machine shall wear a protective apron of a minimum 0.5 millimeter lead equivalence unless shielding is provided as specified in subrule (2) of this rule.

(4) Mobile or portable mammography equipment used routinely in 1 location shall be considered a fixed installation and shall comply with the requirements of R 325.5331.

(5) Mobile or portable mammography equipment shall not be used for routine mammography in hospitals or private offices of practitioners of the healing arts. This equipment shall be used only when it is medically inadvisable to move a patient to a fixed mammographic installation.

R 325.5656 Conditions of operation.

Rule 656. The operation of each mammography x-ray machine shall comply with R 325.5333.

MEDICAL RECORDS AND MAMMOGRAPHY REPORTS

R 325.5657 Medical records and mammography reports.

Rule 657. A mammography facility shall comply with 21 C.F.R. 900.12(c), “Medical records and mammography reports” (2000), except that the reference to retention of records in 21 C.F.R. 900.12(c)(4)(i) is changed from “not less than 5 years” to “not less than 7 years” in accordance with MCL 333.20175.

QUALITY ASSURANCE

R 325.5658 Quality assurance - general.

Rule 658. A mammography facility shall comply with 21 C.F.R. 900.12(d), “Quality assurance general” (2000).

QUALITY CONTROL

R 325.5659 Rescinded.

R 325.5660 Rescinded.

R 325.5661 Rescinded.

R 325.5662 Rescinded.

R 325.5663 Rescinded.

R 325.5664 Rescinded.

R 325.5665 Rescinded.

R 325.5667 Quality assurance – equipment.

Rule 667. A mammography facility shall comply with 21 C.F.R. 900.12(e), “Quality assurance – equipment” (2000).

R 325.5668 Quality assurance - mammography medical outcomes audit; mammographic procedure and techniques for mammography of patients with breast implants; consumer complaint mechanism; and clinical image quality.

Rule 668. A mammography facility shall comply with 21 C.F.R. 900.12(f), “Quality assurance – mammography medical outcomes audit” (2000); 21 C.F.R. 900.12(g), “Mammographic procedure and techniques for mammography of patients with breast implants” (2000); 21 C.F.R. 900.12(h), “Consumer complaint mechanism” (2000) and 21 C.F.R. 900.12(i), “Clinical image quality” (2000).

R 325.5669 Alternative requirements for personnel, x-ray equipment, medical records and mammography reports, and quality assurance.

Rule 669. The department may accept alternatives to a quality standard under 21 CFR 900.12 that have been approved by the U.S. Food and Drug Administration under 21 CFR 900.18, “Alternative requirements for § 900.12 quality standards” (2000).

STEREOTACTIC BREAST BIOPSY

PERSONNEL

R 325.5674 Radiologic technologists.

Rule 674. All stereotactic breast biopsy procedures shall be performed by a radiologic technologist who meets all of the following requirements:

(a) Initial qualifications. Before beginning to perform stereotactic breast biopsy procedures independently, a technologist shall do all of the following:

(i) Meet the requirements of R 325.5630.

(ii) Have 3 hours of category A continuing education units in stereotactic breast biopsy.

(iii) Have performed 5 stereotactic breast biopsy procedures under supervision of a stereotactic breast biopsy physician or a qualified stereotactic breast biopsy technologist.

(b) Continuing experience. Following the second anniversary date of the end of the calendar quarter in which the initial qualifications of subdivision (a) of this rule were completed, the stereotactic breast biopsy technologist shall have performed at least 24 stereotactic breast biopsy procedures during the 24 months immediately preceding the date of the facility's annual inspection or the last day of the calendar quarter preceding the inspection or any date in between the 2. The facility shall choose 1 of these dates to determine the 24-month period.

(c) Continuing education. A technologist shall comply with the American registry of radiologic technologist's requirements for continuing education for the imaging modality in which he or she performs services. The continuing education shall include credits pertinent to stereotactic breast biopsy.

R 325.5675 Medical physicists.

Rule 675. A stereotactic breast biopsy medical physicist shall meet all of the following requirements:

(a) Initial qualifications. Before independently performing surveys of stereotactic breast biopsy facilities a medical physicist shall have complied with all of the following:

(i) Met the requirements of R 325.5634.

(ii) Have performed 1 hands-on stereotactic breast biopsy physics survey under a qualified stereotactic breast biopsy medical physicist or 3 independent stereotactic breast biopsy surveys before the effective date of this rule.

(b) Continuing experience. Following the second anniversary date of the end of the calendar quarter in which the initial qualifications of subdivision (a) of this rule were completed, the stereotactic breast biopsy medical physicist shall have performed at least 2 stereotactic breast biopsy physics surveys during the 24 months immediately preceding the date of the facility's annual inspection or the last day of the calendar quarter preceding the inspection or any date in between the 2. The facility shall choose 1 of these dates to determine the 24-month period.

(c) Continuing education. Following the third anniversary date of the end of the calendar quarter in which the initial qualifications of subdivision (a) of this rule were completed, the stereotactic breast biopsy medical physicist shall have completed at least 3 continuing medical education credits in stereotactic breast biopsy during the 36 months immediately preceding the date of the facility's annual inspection or the last day of the calendar quarter preceding the inspection or any date in between the 2. The facility shall choose 1 of these dates to determine the 36-month period.

X-RAY EQUIPMENT

R 325.5676 Equipment requirements.

Rule 676. (1) The stereotactic breast biopsy mammographic x-ray equipment shall comply with the requirements of R 325.5325(1) and (17) to (23).

(2) A machine that is used for stereotactic breast biopsy shall be 1 of the following:

- (i) A radiation machine that is specifically designed to perform stereotactic breast biopsy.
- (ii) A mammography machine with a specially designed add-on device for breast biopsy.
- (iii) A mammography machine that exclusively uses lateral arm devices if the needle can be seen in 2 ways in relation to the target lesion.

R 325.5677 Enclosures; use of mobile equipment.

Rule 677. (1) A fixed x-ray equipment enclosure shall comply with R 325.5331.

(2) For stereotactic breast biopsy, the operator's barrier shall provide radiation protection that is equivalent to not less than 0.5 millimeter of lead when the maximum tube potential is less than or equal to 35 kilovolts and 0.8 millimeter of lead when the maximum tube potential is greater than 35 kilovolts.

(3) An individual operating mobile or portable stereotactic breast biopsy equipment shall wear a protective apron of a minimum 0.5 millimeter lead equivalence unless shielding is provided as specified in subrule (2) of this rule.

(4) Mobile or portable stereotactic breast biopsy equipment used routinely in 1 location shall be considered a fixed installation and shall comply with the requirements of R 325.5331.

(5) Mobile or portable stereotactic breast biopsy equipment shall not be used for routine mammography in hospitals or private offices of physicians or osteopathic physicians. This equipment shall be used only when it is medically inadvisable to move a patient to a fixed mammographic installation.

R 325.5678 Conditions of operation.

Rule 678. The operation of a mammography x-ray machine shall comply with R 325.5333.

MEDICAL RECORDS AND STEREOTACTIC BREAST BIOPSY REPORTS

R 325.5679 Report contents.

Rule 679. A stereotactic breast biopsy facility shall prepare a written report of the results of each stereotactic breast biopsy procedure. The stereotactic breast biopsy report shall include all of the following information:

- (a) The name of the patient and an additional unique patient identifier.
- (b) The date of the procedure.
- (c) The name of the stereotactic breast biopsy physician who conducted the procedure.
- (d) The procedure performed.
- (e) Designation of the left or right breast.
- (f) Description and location of the lesion.

R 325.5681 Communication of stereotactic breast biopsy results to health care providers.

Rule 681. When a patient has a referring health care provider or a patient has named a health care provider, the stereotactic breast biopsy facility shall provide a written report of the stereotactic breast biopsy procedure, including the items listed in R 325.5679, to that health care provider not later than 30 days after the date that the stereotactic breast biopsy procedure was performed.

R 325.5682 Record keeping.

Rule 682. (1) A facility that performs stereotactic breast biopsy procedures shall comply with both of the following:

(a) Maintain stereotactic breast biopsy images and reports in a permanent medical record of the patient for a period of not less than 7 years, or not less than 10 years if no additional stereotactic breast biopsy procedures of the patient are performed at the facility.

(b) Upon request by, or on behalf of, a patient, permanently or temporarily transfer the original stereotactic breast biopsy images and copies of the patient's reports to any of the following:

(i) A medical institution.

(ii) A patient's physician.

(iii) The patient directly.

(2) Any fee a facility charges a patient for providing the services specified in subrule (1)(b) of this rule shall not exceed the documented costs associated with this service.

R 325.5683 Stereotactic breast biopsy image identification.

Rule 683. A stereotactic breast biopsy image shall have the following information indicated on it in a permanent, legible, and unambiguous manner and placed so as not to obscure anatomic structures:

(a) Name of patient and an additional unique patient identifier.

(b) Date of the procedure.

(c) Designation of left or right breast.

(d) Cassette identification, if applicable.

(e) Stereotactic breast biopsy unit identification if there is more than 1 unit in the facility.

QUALITY ASSURANCE

R 325.5684 Quality assurance – general.

Rule 684. A stereotactic breast biopsy facility shall establish and maintain a quality assurance program to ensure the safety, reliability, clarity, and accuracy of stereotactic breast biopsy services performed at the facility.

R 325.5685 Responsible individuals.

Rule 685. Responsibility for the quality assurance program and for each of its elements shall be assigned to the following individuals who are qualified for their assignments:

(a) Lead stereotactic breast biopsy physician. The facility shall identify a lead stereotactic breast biopsy physician who shall be responsible for ensuring that the quality assurance program meets all requirements of R 325.5684 to R 325.5698. No other individual shall be assigned or shall retain responsibility for quality assurance tasks unless the lead stereotactic breast biopsy physician has determined that the individual is qualified to perform the assignment.

(b) Stereotactic breast biopsy physicians. All stereotactic breast biopsy physicians conducting stereotactic breast biopsy procedures for the facility shall do both of the following:

(i) Follow the facility's procedures for corrective action when the images they are asked to interpret are of poor quality.

(ii) Participate in the facility's medical outcomes audit program.

(c) Medical physicist. The facility shall have the services of a medical physicist available to survey stereotactic breast biopsy equipment and oversee the equipment-related quality assurance practices of the facility. The medical physicist shall be responsible for performing the surveys and stereotactic breast biopsy equipment evaluations and providing the facility with the reports described in R 325.5693 and R 325.5694.

(d) Quality control technologist. Responsibility for tasks within the quality assurance program not assigned to the lead stereotactic breast biopsy physician or the medical physicist shall be assigned to a quality control technologist. The tasks are to be performed by the quality control technologist, but may be delegated to other qualified personnel by the quality control technologist. When other personnel are utilized for these tasks, the quality control technologist shall ensure that they were completed in compliance with R 325.5687.

R 325.5686 Quality assurance records.

Rule 686. (1) The lead stereotactic breast biopsy physician, quality control technologist, and medical physicist shall ensure that records concerning the following items are properly maintained and updated:

- (a) Stereotactic breast biopsy techniques and procedures.
- (b) Quality control, including monitoring data and corrective actions taken.
- (c) Safety.
- (d) Employee qualifications to meet assigned quality assurance tasks.

(2) The quality assurance records specified in subrule (1) of this rule shall be kept for each test specified in R 325.5684 to R 325.5698 until the next annual inspection has been completed and the department has determined that the facility is in compliance with the quality assurance requirements, or until the test has been performed 2 additional times at the required frequency, whichever is longer.

R 325.5687 Radiologic technologist quality control tests.

Rule 687. A stereotactic breast biopsy facility shall have a radiologic technologist perform the following quality control tests at the intervals specified in this rule:

- (a) A localization accuracy test shall be performed daily before the equipment is used on patients. Each of the indicated needle tip coordinates shall be within 1 millimeter of the actual preset needle tip location.
- (b) A phantom image evaluation shall be performed at least weekly. The phantom image shall achieve at least the minimum score established in R 325.5689.
- (c) A hard copy output quality test shall be performed at least monthly, if hard copies are produced from digital data.
- (d) A compression test shall be performed at least semiannually. The maximum compression force for the power drive mode shall be between 25 pounds and 45 pounds.
- (e) A repeat analysis shall be performed at least semiannually. If the overall repeat or reject rate exceeds 20% based on an image volume of not less than 150 patients, the reason for the change shall be determined. A repeat analysis shall be assessed semiannually even if fewer than 150 patients are examined during that period.
- (f) If stereotactic breast biopsy is performed using a screen-film system, the following tests shall be required:
 - (i) A processor quality control test shall be performed at least daily. Film processors used to develop stereotactic breast biopsy films shall be adjusted and maintained to meet the technical development specifications for the mammography film in use. A processor performance test shall be performed at the beginning of each operational day before processing any clinical images. The test shall use the mammography film used clinically at the facility and shall include an assessment of base plus fog density, mid-density, and density difference as follows:
 - (A) The base plus fog density shall be within 0.03 of the established operating level.
 - (B) The mid-density shall be within plus or minus 0.15 of the established operating level.
 - (C) The density difference shall be within plus or minus 0.15 of the established operating level.
 - (ii) An analysis of fixer retention in film assessed at least quarterly. The residual fixer shall be not more than 5 micrograms per square centimeter.

(iii) A screen-film contact test shall be performed at least semiannually. Testing for screen-film contact shall be conducted using 40 mesh copper screen. All cassettes used in the facility for stereotactic breast biopsy shall be tested.

(iv) A test of darkroom fog shall be performed at least semiannually. The optical density attributable to darkroom fog shall not exceed 0.05 when a mammography film of the type used in the facility, which has a mid-density of not less than 1.2 optical density, is exposed to typical darkroom conditions for 2 minutes while such film is placed on the counter top emulsion side up.

R 325.5688 Annual medical physicist's quality control tests.

Rule 688. A stereotactic breast biopsy facility shall have the medical physicist perform the following quality control tests at least annually after equipment installation:

(a) Collimation assessment that meets either of the following:

(i) For screen-film systems, the x-ray field shall be contained within the image receptor on all 3 sides except the chest wall edge. The x-ray field shall not extend beyond the chest wall edge of the image receptor by more than 2% of the source-to-image receptor distance.

(ii) For digital image receptors, the x-ray field may extend beyond the edge of the image receptor on all 4 sides, but no edge of the x-ray field shall extend beyond the image receptor by more than 5 millimeters on any side. Distances shall be measured in, or referred to, the plane of the digital image receptor.

(b) Focal spot performance and system limiting spatial resolution. Assess consistency of system-limiting resolution over time and in comparison to acceptance testing results using a line pair test pattern.

(c) Kilovoltage peak (kVp) accuracy and reproducibility. The kVp shall be accurate to within plus or minus 5% of the indicated or selected kVp. The coefficient of variation of reproducibility of the kVp shall be equal to or less than 0.02 at the most commonly used clinical settings of kVp.

(d) Beam quality assessment. The half-value layer (HVL) shall be equal to or greater than the value kVp/100 in units of millimeter of aluminum.

(e) Automatic exposure control system or manual exposure performance assessment that meets either of the following:

(i) For screen-film systems, the image optical density shall be within plus or minus 0.15 of the mean optical density when thicknesses of a homogeneous material is varied over a range of 4 to 8 centimeters using the clinical techniques for each thickness. If the optical densities do not meet this criterion, the medical physicist shall develop a technique chart which meets this criterion.

(ii) For digital systems, the signal value at the center of the digital field of view shall remain within 20% of the signal obtained for the 4 centimeter phantom when thicknesses of a homogeneous material is varied over a range of 4 to 8 centimeters using the clinical techniques for each thickness. If the signal values do not meet this criterion, the medical physicist shall develop technique chart which meets this criterion.

(f) Image receptor speed uniformity that meets either of the following:

(i) For screen-film systems, the difference between the maximum and minimum optical densities of all the cassettes in the facility shall not exceed 0.30.

(ii) For digital systems, the signal-to-noise ratios (SNR) measured in each corner of the image shall be within plus or minus 15% of the SNR measured at the center of the field of view.

(iii) For digital systems that are not equipped with region of interest signal measurements, the machine will meet the receptor uniformity requirements specified by the manufacturer.

(g) Breast entrance exposure, average glandular dose, and exposure reproducibility. The coefficient of variation for both air kerma and mAs shall not exceed 0.05. The average glandular dose delivered during a single exposure of a department-approved phantom simulating a standard breast shall not exceed 3.0 milligray (300 millirad) per exposure.

(h) Image quality evaluation. An image of a department-approved phantom shall achieve at least the minimum score established in R 325.5689.

(i) Artifact evaluation. System artifacts shall be evaluated with a high-grade, defect-free sheet of homogeneous material large enough to cover the full area of the exposed image receptor on the breast support assembly.

(j) Localization accuracy test. Using a phantom made of gelatin or similar material, the biopsy needle shall capture the intended object in the phantom.

R 325.5689 Phantom image scores.

Rule 689. A stereotactic breast biopsy phantom image score for the tests required in rules R 325.5687(b) and R 325.5688(h) shall be not less than the values specified in table 689:

TABLE 689

Image System	Standard Mammography Phantom			Mini Stereotactic Phantom		
	Fibers	Speck Groups	Masses	Fibers	Speck Groups	Masses
Screen-film	4.0	3.0	3.0	2.0	2.0	2.0
Digital	5.0	4.0	3.5	3.0	3.0	2.5

R 325.5690 Dosimetry.

Rule 690. The average glandular dose delivered during a single exposure of a department-approved phantom simulating a standard breast shall not exceed 3.0 milligray (300 millirad) per exposure. The dose shall be determined with technique factors and conditions used clinically for a standard breast.

R 325.5691 Quality assurance for mobile units.

Rule 691. A stereotactic breast biopsy facility shall verify that mammography units used to produce interventional mammograms at more than 1 location meet the requirements in R 325.5687 to R 325.5690. At each examination location and before any examinations are conducted, the facility shall verify satisfactory performance of these units by using a test method that establishes the adequacy of the image quality produced by the unit.

R 325.5692 Use of quality assurance test results.

Rule 692. (1) After completion of tests specified in R 325.5687 to R 325.5691, the facility shall compare the test results to the corresponding specified action limits or the limits established by the facility to verify the image quality of mobile units following a move.

(2) If the test results fall outside of the action limits, the source of the problem shall be identified and corrective actions shall be taken within the following time frames:

(a) Before any further examinations are performed or any films are processed using a component of the mammography system that failed any of the tests described in R 325.5687(a),(b),(d),(f)(i), (f)(iii), (f)(iv); R 325.5688(g) and (h); or R 325.5691.

(b) Within 30 days of the test date for all other tests described in R 325.5687 to R 325.5691.

R 325.5693 Medical physicist surveys.

Rule 693. (1) A stereotactic breast biopsy facility shall annually undergo a survey by a medical physicist or by an individual under the direct supervision of a medical physicist. The survey shall include, at a minimum, the performance of tests to ensure that the facility meets the quality assurance

requirements of the annual tests described in R 325.5688 and the weekly phantom image quality test as provided in R 325.5687(b).

(2) The results of all tests conducted by the facility in accordance with R 325.5687 to R 325.5691 and written documentation of any corrective actions taken and their results shall be evaluated for adequacy by the medical physicist performing the survey.

(3) The medical physicist shall prepare a survey report that includes a summary of this review and recommendations for necessary improvements.

(4) The survey report shall be provided to the facility within 30 days of the date of the survey.

(5) The survey report shall be dated and signed by the medical physicist who performed or supervised the survey. If the survey was performed entirely or in part by an individual under the direct supervision of the medical physicist, that individual and the part of the survey that individual performed shall be identified in the survey report.

R 325.5694 Mammography equipment evaluations.

Rule 694. (1) Additional evaluations of stereotactic breast biopsy units or image processors shall be conducted whenever a new unit or processor is installed, a unit or processor is disassembled and reassembled at the same or a new location, or major components of a stereotactic breast biopsy unit or processor equipment are changed or repaired. These evaluations shall be used to determine whether the new or changed equipment meets the requirements of R 325.5676 to R 325.5678 and R 325.5687 to R 325.5691, as applicable. Problems revealed by the evaluation shall be corrected before the new or changed equipment is put into service for procedures or film processing.

(2) The equipment evaluations specified in subrule (1) of this rule shall be performed by a medical physicist or by an individual under the direct supervision of a medical physicist.

R 325.5695 Cleanliness in facilities using screen-film systems.

Rule 695. (1) A stereotactic breast biopsy facility shall establish and implement protocols for maintaining darkroom, screen, and view box cleanliness.

(2) The facility shall document that all cleaning procedures are performed at the frequencies specified in the protocols.

R 325.5696 Calibration of air kerma measuring instruments.

Rule 696. Instruments used by a medical physicist in his or her annual survey to measure the air kerma or air kerma rate from a stereotactic breast biopsy unit shall be calibrated once every 2 years and each time the instrument is repaired. The instrument calibration must be traceable to a national standard and calibrated with an accuracy of plus or minus 6 percent (95 percent confidence level) in the mammography energy range.

R 325.5697 Infection control.

Rule 697. A stereotactic breast biopsy facility shall establish and comply with procedures to be followed for cleaning and disinfecting stereotactic breast biopsy equipment after contact with blood or other potentially infectious materials. The procedures shall include methods for documenting facility compliance with the infection control procedures.

R 325.5698 Medical outcomes audit.

Rule 698. A stereotactic breast biopsy facility shall establish and maintain a stereotactic breast biopsy medical outcomes audit program that complies with the following:

(a) General requirements. A stereotactic breast biopsy facility shall establish a system to collect and review all of the following data:

- (i) Total number of procedures.
- (ii) Total number of cancers found.
- (iii) Total number of benign lesions.
- (iv) Total number of stereotactic breast biopsy needing repeat biopsy.
- (v) Total number of complications.
- (b) Frequency of audit analysis. The facility's first audit analysis shall be initiated not later than 12 months after the date the facility becomes registered with the department, or 12 months after the effective date of this rule, whichever date is later. The audit analysis shall be completed within an additional 12 months to permit completion of procedures and data collection. Subsequent audit analyses shall be conducted at least once every 12 months.
- (c) Audit stereotactic breast biopsy physician. A stereotactic breast biopsy facility shall designate at least 1 stereotactic breast biopsy physician to review the medical outcomes audit data at least once every 12 months. This physician shall record the dates of the audit period; analyze results based on the audit; document the results; and notify other stereotactic breast biopsy physicians of the results and the facility's aggregate results. The audit stereotactic breast biopsy physician shall ensure that any follow-up actions are documented.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS

Filed with the Secretary of State on April 17, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154, MCL 408.1019 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.17403, R408.17404, R 408.17405, R 408.17411, R 408.17412, R 408.17415, R 408.17421, R 408.17422, R 408.17423, R 408.17424, R 408.17426, R 408.17431, R 408.17432, R 408.17433, R 408.17434, R 408.17435, R 408.17436, R 408.17437, R 408.17451, R 408.17461, and R 408.17463 of the Michigan Administrative Code are amended as follows:

PART 74. FIRE FIGHTING

R 408.17403. Definitions; A to M.

Rule 7403. (1) "Approved label" means a label or other identifying mark of a nationally recognized testing laboratory, such as underwriters laboratory, inc., or factory mutual research corporation, that maintains a periodic inspection of production of labeled equipment or materials and by whose labeling compliance with nationally recognized standards or tests to determine suitable usage in a specified manner is indicated.

(2) "Aerial apparatus" means a fire department vehicle which is equipped with a power operated extension ladder or elevating platform used for rescue, ventilation, elevated master streams, and gaining access to upper levels and which carries ground ladders, tools, and other equipment.

(3) "Control" means the limitation of worker exposure to exhaust emissions to levels not exceeding applicable MIOSHA exposure limits.

(4) "Controlled process" means an arrangement of equipment to control exhaust emissions by means of any of the following:

(a) A point of source capture of exhaust emissions by a mechanical tailpipe exhaust ventilation system.

(b) A general mechanical exhaust ventilation system in a fire apparatus building bay or bays.

(c) A device that is permanently installed directly on the fire apparatus exhaust system.

(5) "Emergency operations" means a fire or nonfire incident, including, but not limited to, rescues, extrications, hazardous material release, and natural disasters, where fire department response can be

anticipated and which subject fire personnel to personal injury or hazards. Vegetative cover fires are not included in this definition.

(6) “Exhaust emissions” means exhaust by-products of combustion, from internal combustion engines, capable of causing occupational illness or disease to a person.

(7) “Fire apparatus” means mobile fire fighting equipment such as, but not limited to, a pumper/engine, aerial apparatus, a tanker/tender, or any other similar equipment that has fire suppression or rescue as its primary use. A vehicle not designed, equipped, or utilized for emergency operations is not fire apparatus.

(8) “Fire station” means a structure in which fire service equipment is housed and employees may be quartered.

(9) “Fire service personnel” means all employees who are engaged in fire suppression, fire inspection, or fire investigation or who are subjected to the hazards of emergency operations.

(10) “Head protection” means a fire fighter’s helmet and hood.

(11) “Ladder pipe” means a large capacity water delivery device attached to an aerial ladder.

(12) “Municipal” means any public entity.

R 408.17404. Definitions; O to V.

Rule 7404. (1) “Operator’s control station” means a work station where the operator of apparatus, such as an aerial ladder or pumper, is stationed.

(2) “Personal alert safety systems (PASS)” means a device that is certified as being in compliance with these rules, that senses movement or lack of movement, and that automatically activates an audible alarm signal (which can also be manually activated to alert and to assist others in locating a fire fighter or emergency services person who is in danger).

(3) “Platform control station” means a work station where the rider of an elevating platform is stationed.

(4) “Positive-pressure breathing apparatus” means a self-contained breathing apparatus in which the pressure in the breathing zone is positive in relation to the immediate environment during inhalation and exhalation.

(5) “Primary control station” means a work station where the operator of apparatus that has an aerial ladder or platform is stationed.

(6) “Protective ensemble” means multiple elements of clothing and equipment designed to provide a degree of protection for fire service personnel from adverse exposures to the inherent risks of structural fire fighting operations and other emergency operations.

(7) “Roof ladder” means a ladder equipped with folding hooks. The hooks provide a means of anchoring the ladder to the roof ridge or other roof part.

(8) “Stay poles” also called tormenters, mean poles attached to the rails of the long extension ladders to aid in the raising and supporting of the ladder.

(9) “Structural fire fighting” means activities of rescue, fire suppression, and property conservation in buildings, enclosed structures, aircraft, vehicles, vessels, or like properties that are involved in a fire or emergency situation.

(10) “Training” means the process of making fire service personnel proficient through instruction or hands-on practice, or both, in the operation and care of equipment that is expected to be used and in the performance of assigned duties.

(11) “Volunteer” means a person who is permitted to work as, and who is trained as, a member of an organized fire department.

R 408.17405. Adopted and referenced standards.

Rule 7405. (1) The following National Fire Protection Association standards are adopted by reference in these rules and are available from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02269-9101, or via the internet at web-site: WWW.NFPA.ORG, at a cost as of the time of adoption of these amendments, as stated in subdivisions (a) to (e) of this subrule.

(a) NFPA 1901: standard for “Automotive Fire Apparatus,” 2009 edition. Cost: \$50.50.

(b) NFPA 1983: standard on “Fire Service Life Safety Rope and System Components,” 1995 edition. Cost: \$27.00.

(c) NFPA 1971: standard on “Protective Ensemble for Structural Fire Fighting,” 2007 edition. Cost: \$48.50.

(d) NFPA 1981: standard on “Open Circuit Self-contained Breathing Apparatus for Fire Fighter,” 1997 edition. Cost: \$43.00.

(e) NFPA 1982: standard on “Personal Alert Safety System (PASS) for Fire Fighters,” 1998 edition. Cost: \$39.00.

(2) Copies of the standards adopted in subrule (1) of this rule may be obtained from the publisher or may also be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost changed in subrule (1) of this rule plus \$20.00 for shipping and handling.

(3) The following Occupational Safety and Health Administrative standards as referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) General industry safety standard part 4 “Portable Ladders,” R 408.10401 to R 408.10456.

(b) General industry safety standard part 33 “Personal Protective Equipment,” R 408.13301 to R 408.13398.

(c) General industry safety standard part 72 “Automotive Service Operations,” R 408.17201 to R 408.17253.

(d) Occupational health standard part 380 “Noise Exposure and Hearing Conservation” R 325.60101 to R 325.60128.

(e) Occupational health standard part 451 “Respiratory Protection” R 325.60051 to R 325.60052.

(f) Occupational health standard part 472 “Medical Services and First Aid” R 325.47201.

408.17411. Duties of employer.

Rule 7411. (1) An employer shall comply with all of the following requirements:

(a) Provide initial and continuing training to an employee commensurate with and specific to the duties and functions that the employee is expected to perform. The training shall be provided before the employee is permitted to perform emergency operations.

(b) Assure that prospective fire service personnel are physically fit and have the ability to perform assigned emergency operations.

(c) Assure that job-required equipment and tools are maintained free of recognized defects that could cause an injury.

(d) Develop a basic procedure that covers the treatment and transport of injured employees from the emergency scene to a medical facility.

(e) Provide in the workplace first aid supplies/kits appropriate for the hazard history, to minimally comply with the requirements of the occupational health standard Part 472 “Medical Services and First Aid,” as referenced in R 408.17405.

(f) Comply with the requirements of this part, review with, and make available a copy of this part for employees.

(2) An employer shall prepare and maintain a statement or written policy which establishes its basic organizational structure and which establishes the type, amount, frequency of training to be provided to fire service personnel, and maintain training records. The organizational statement and training records shall be available for inspection by the director of the department of licensing and regulatory affairs or his or her authorized representative and by an employee or his or her authorized representative.

R 408.17412. Duties of employee.

Rule 7412. An employee shall do all of the following:

- (a) Use personal protective equipment as prescribed by this part.
- (b) Report defective equipment, tools, and hazardous conditions to a supervisor.
- (c) Not remove safeguards from equipment except when necessary to service. The safeguard or equivalent shall be replaced before returning the equipment to operation.
- (d) Not use equipment and tools unless trained in their use and authorized to do so.
- (e) Only perform those duties that he or she is trained to do.

R 408.17415. Fire station safety.

Rule 7415. (1) The area within 3 feet of the slide pole on all sides shall be maintained free of any obstruction. A floor-to-ceiling wall shall not be construed to be an obstruction.

(2) A cushioned mat, not less than 3 feet in diameter, shall be located around the base of the slide pole at all times.

(3) A dormitory and any means of egress from the dormitory, apparatus bay, and aiseways shall be equipped with an emergency lighting system which shall be automatically activated in case of power failure. The system may be operated by battery or generator.

(4) Switches and electrical equipment located in the shower or other areas subject to hazards created by moisture shall be approved for the location or removed to a nonhazardous area.

(5) All sleeping quarters shall be equipped with an operational smoke detection device and an operational carbon monoxide detection device.

(6) All new construction or significantly remodeled facilities (50% or more area) that house fire apparatus shall install a controlled process exhaust ventilation system that will effectively control exhaust emissions created by the fire apparatus and will assure that employee exposures to the exhaust emissions do not exceed applicable MIOSHA exposure limits. If a general mechanical exhaust ventilation system is utilized, then a mechanical air supply system shall be provided if its absence will result in building negative pressures sufficient to cause back drafting of vents from fuel-fired equipment.

(7) All equipment used for the control of exhaust emissions from fire apparatus shall be used, inspected, and maintained in accordance with the manufacturer's recommendations.

CONSTRUCTION AND USE OF EQUIPMENT

R 408.17421. Fire apparatus generally.

Rule 7421. (1) Fire apparatus shall be able to stop within 30 feet after application of the brakes at 20 miles per hour.

(2) Fire apparatus shall be equipped with all of the following items:

- (a) Windshield wipers.
- (b) Head, tail, stop, and backup lights and a backup alarm.
- (c) Horn and siren.
- (d) Slip-resistant steps, tailboard, and work platforms.
- (e) Seat belts for all seated employees. Seat belts shall be used while the apparatus is in motion.

(f) If an employee is allowed by the employer to ride the apparatus in an unseated position while the apparatus is in motion, then the employer shall provide for, and enforce the use of, a safety harness.

(3) New fire apparatus that is manufactured and purchased after the effective date of these rules shall comply with the requirements of the national fire protection association standard NFPA 1901: standard for “Automotive Fire Apparatus,” 2009 edition, which is adopted by reference in R 408.17405.

(4) Fire apparatus using a tiller person or other employees riding on the apparatus remote from the cab shall be equipped with a voice communication system or audible signal system at each location of an operating employee. When the audible system is used, all of the following signals shall be in effect:

- (a) One long blast means stop.
- (b) Two short blasts mean forward.
- (c) Three short blasts mean reverse.

(5) Except on instructions of a designated signalperson, an operator of fire apparatus shall not move the equipment when his or her vision is obstructed.

(6) A minimum distance of 10 feet from unprotected energized equipment or high-voltage transmission lines, as distinguished from low voltage secondary lines and series streetlight construction, shall be maintained when using fire apparatus. The training of fire service personnel shall include development of the ability to recognize and identify primary, high-voltage transmission lines and series street lighting construction.

R 408.17422. Fire apparatus tires and rims.

Rule 7422. (1) A thorough visual inspection of the tread and sidewall areas of fire apparatus tires for cuts, cracks, splits, or bruises, including a tread depth measurement, shall be made at least annually. A record of this inspection shall be maintained for a minimum of 10 years.

(2) A tire shall be replaced if 1 of the following occurs:

- (a) The average tread depth is worn to 5/32 of an inch or less.
- (b) The tread depth at any 1 location is 2/32 of an inch, or less.
- (c) A cut or crack exposes the cord fabric.

(3) A replacement tire shall meet or exceed the standards of the original tire furnished with the apparatus.

(4) Fire apparatus tires and rims shall be inspected inside at least once every 10 years.

(5) All breakdown of fire apparatus tires shall comply with general industry safety standard Part 72 “Automotive Service Operations,” as referenced in R 408.17405.

R 408.17423. Fire apparatus with elevating platforms.

Rule 7423. (1) When an aerial apparatus platform is elevated, parking brakes shall be set and stabilizing jacks or outriggers and safety locks shall be used. When needed, ground plates shall be used under the jack or outriggers.

(2) An instructional information plate, which is clearly visible to the operator, shall be located at the operator’s control station. If the aerial is equipped with a platform, then a plate shall also be located at the platform control station. The plate shall contain all of the following information:

- (a) Rated capacity of the aerial tip or platform.
- (b) Operating controls identified for motion.
- (c) Cautions or restrictions of operation.

(3) An operator shall comply with all of the following provisions:

- (a) Remain at the primary control station when the aerial ladder or platform is occupied.
- (b) Not move the apparatus unless the ladder or platform is in the bed of the apparatus.
- (c) Maintain clearances as required in R 408.17421(6).

R 408.17424. Aerial apparatus.

Rule 7424. (1) An aerial apparatus that is equipped with a ladder shall not have the ladder extended or retracted when an employee is positioned on the ladder.

(2) While working from an aerial apparatus, an employee shall be secured with a safety belt system as referenced in the national fire protection association standard NFPA 1983: standard on “Fire Service Life Safety Rope and System Components,” 1995 edition which is adopted by reference in R 408.17405.

(3) The tip of the aerial ladder shall not be forcefully extended against a solid object or used to support the ladder.

(4) The steps and rungs of an aerial apparatus shall have a slip-resistant surface.

(5) Jacks, outriggers, and safety locks shall be used as required in R 408.17423(1).

(6) The rated capacity for an aerial apparatus shall not be exceeded.

(7) The operator of an aerial ladder shall comply with all of the following provisions:

(a) Remain at the primary control station when the ladder is occupied.

(b) Communicate to occupant of ladder prior to movement.

(c) Not move the apparatus unless the ladder is in the bed.

(8) The operator of an aerial ladder shall maintain clearances as required in R 408.17421(6).

(9) The controls for the operation of an aerial apparatus shall be of a type that returns to a neutral position when released.

(10) Tools or equipment shall not be mounted or installed on the turntable.

(11) A 2-way voice communication system shall be provided between the employee on the raised portion of the equipment and the operator control station.

(12) Detachable ladder pipes shall be operated in the direction the ladder is facing.

(13) Ladder pipes shall be secured to the ladder so that the pipe cannot be accidentally dislodged while in operation.

(14) An employer shall follow the manufacturer’s instructions and recommendations for the use, testing, and maintenance of aerial apparatus.

R 408.17426. Portable ladders.

Rule 7426. (1) Except as otherwise required by these rules, a portable ladder shall be constructed, used, and maintained to comply with general industry safety standard Part 4 “Portable Ladders,” as referenced in R 408.17405.

(2) The rung spacing shall be not less than 12 inches nor more than 16 inches.

(3) The rungs of a metal ladder shall have a slip-resistant surface.

(4) A roof ladder assembly shall be capable of supporting a direct load of not less than 500 pounds.

(5) Stay poles or tormenters shall be furnished on any wood ladder that extends more than 36 feet. The spikes on stay poles shall not project beyond the end of the ladder when nested. The locking pins on stay poles shall be securely attached to the ladders.

(6) Portable ladders which are mounted more than 4 feet in height and less than 7 feet in height on a fire apparatus, and which have ends that extend beyond the ladder’s mounting surface or compartment shall be protected from contact.

PROTECTIVE EQUIPMENT

R 408.17431. Personal protective equipment.

Rule 7431. (1) An employer shall assure that all emergency service personnel use personal protective equipment appropriate for the exposure involved when performing emergency operations.

(2) Personal protective equipment shall be provided by the employer at no cost to the employee and shall comply with the requirements of this part.

(3) An employer shall assure that personal protective equipment protects the head, body, and extremities and consists of at least all of the following components:

- (a) Foot and leg protection.
- (b) Hand protection.
- (c) Body protection.
- (d) Face, eye, and head protection.

(4) Personal protective equipment that is required by these rules to comply with the requirements of a nationally recognized standard shall either bear an approved label of, or be certified in writing by, the manufacturer as being in compliance with the applicable standard.

(5) Head protection and eye protection shall be provided for, and used by, persons who ride in cabs or tiller seats that are not enclosed.

(6) Personal protective equipment that is used by more than 1 employee shall be cleaned or sanitized before reassignment.

(7) Personal protective equipment shall be inspected by the user after each use.

(8) An employer shall implement procedures for inspecting and servicing personal protective equipment, particularly following fires or other emergency usage. The procedures employed for such servicing, such as product washing or other cleaning, shall comply with the manufacturer's recommendations.

(9) An employer shall implement a procedure for determining whether personal protective equipment shall be repaired or replaced. All repairs shall be made in compliance with the manufacturer's recommendations.

(10) Respiratory equipment devices shall be inspected by the user after each use. Malfunctioning or damaged components or units shall be repaired by the manufacturer or a person who is certified by the manufacturer or shall be replaced.

R 408.17432. Protective clothing for emergency operations.

Rule 7432. An employer shall provide both protective coats and protective trousers, or a protective coverall to all employees who engage in or are exposed to fire hazards of emergency operations. The protective coat, trouser, and coverall shall meet the applicable requirements of the national fire protection association standard NFPA 1971: standard on "Protective Ensemble for Structural Fire Fighting," 2007 edition, which is adopted by reference in R 408.17405.

R 408.17433. Head, eye, and face protection.

Rule 7433. (1) An employer shall do all of the following:

(a) Provide primary head, face, and eye protection appropriate for a given specific hazard to all employees exposed, or potentially exposed, to the specific hazard. An employer shall assess potential emergency operation scenes to determine what hazards requiring head, face, and eye protection are present, or likely to be present, and match the protective device to the particular hazard. An employer shall have and implement written operational procedures specific to the type of hazard to which an employee may be exposed.

(b) Maintain head, face, and eye protection in a location of readiness for immediate response to structural fires or other emergency operations.

(c) Ensure that protective eye and face devices that comply with general industry safety standard Part 33: "Personal Protective Equipment," as referenced in R 408.17405, are used by emergency service personnel when performing operations where the hazards of flying or falling materials that might cause eye and face injuries are present.

(2) While conducting emergency operations, the requirement of face and eye protection shall be met by helmet face shield, if equipped, and primary eye protection, or breathing apparatus face piece, or

primary eye protection and secondary means of face protection. An employer shall provide helmets to all employees who engage in or are exposed to the hazards of structural fire fighting. The helmets shall meet the requirements of the national fire protection standard NFPA 1971: standard on “Protective Ensemble for Structural Fire Fighting,” 2007 edition, which is adopted by reference in R 408.17405.

(3) An employer shall provide protective hoods to all employees who engage in or are exposed to fire hazards of emergency operations. The protective hoods shall meet the applicable requirements of the national fire protection association standard NFPA 1971: standard on “Protective Ensemble for Structural Fire Fighting,” 2007 edition, which is adopted by reference in R 408.17405.

R 408.17434. Foot and leg protection.

Rule 7434. An employer shall provide foot and leg protection to all employees who engage in or are exposed to the hazards of emergency operations. The foot and leg protection shall meet the applicable requirements of the national fire protection association standard NFPA 1971: standard on “Protective Ensemble for Structural Fire Fighting,” 2007 edition, which is adopted by reference in R 408.17405.

R 408.17435. Hand protection.

Rule 7435. An employer shall provide hand protection to all employees who engage in or are exposed to the hazards of emergency operations. The hand protection shall meet the applicable requirements of the national fire protection association standard NFPA 1971: standard on “Protective Ensemble for Structural Fire Fighting,” 2007 edition, which is adopted by reference in R 408.17405.

R 408.17436. Respirator protection devices.

Rule 7436. (1) An employer shall have a written respiratory protection program to address the safe use of respirators in dangerous atmospheres that may be encountered in emergency operations, that complies with occupational health standard Part 451 “Respiratory Protection,” as referenced in R 408.17405.

(2) An employer shall assure that self-contained breathing apparatus for use by fire service personnel is of the positive pressure type. All breathing apparatus that is purchased after the effective date of these rules shall comply with the national fire protection association standard NFPA 1981: standard on “Open Circuit Self-Contained Breathing Apparatus for Fire Fighters,” 1997 edition, which is adopted by reference in R 408.17405.

(3) Subrule (2) of this rule does not prohibit the use of a self-contained breathing apparatus where the apparatus can be switched from a demand mode to a positive-pressure mode when an employee is performing emergency operations.

R 408.17437. Hearing protection.

Rule 7437. An employer shall comply with occupational health standard Part 380 “Noise Exposure and Hearing Conservation,” as referenced in R 408.17405.

OPERATIONS

R 408.17451. Management of emergency operations.

Rule 7451. (1) Each fire department shall establish and implement written procedures for emergency operations. The written procedures shall include all of the following:

(a) A requirement that a nationally recognized incident management system be implemented at each emergency.

(b) A requirement that a personnel accountability system be implemented at each emergency.

(c) A statement that the procedures apply to all employees who are operating at the emergency.

(d) A requirement for initial training and annual refresher training in emergency operations and the incident management system.

(e) A requirement that the procedures shall comply with the “two in/two out” rules as found in 1910.134(g)(4), which was adopted by reference in the occupational health standard Part 451 “Respiratory Protection,” as referenced in R 408.17405.

(2) A trained employee shall function as the incident commander at each emergency.

INSPECTIONS

R 408.17461. Inspection of fire apparatus and equipment; record of repair or replacement; lifeline guns and explosive devices; apparatus and equipment involved in accident; equipment testing.

Rule 7461. (1) All of the following items of the fire apparatus, if so equipped, shall be inspected for proper operation and for defects at least once a month:

- (a) Windshield washers and wipers.
- (b) Defroster and heater.
- (c) Head, tail, stop, backup, and flasher lights.
- (d) Backup alarm.
- (e) Horn and siren.
- (f) Slip-resistant steps and platforms.
- (g) Tires, rims, and suspension system.
- (h) Steering mechanism.
- (i) Braking system.
- (j) Operational controls.

Inspection records shall be maintained for a minimum period of 24 months for the apparatus.

(2) Records of repair or replacement shall be maintained for the life of the apparatus.

(3) Lifeline guns and explosive devices shall be cleaned and made ready for operation after each use.

(4) Apparatus and equipment involved in an accident shall be inspected by a licensed mechanic and tested before subsequent use.

(5) All portable equipment carried on a fire apparatus shall be inspected for operation and for defects at least monthly and within 24 hours after any use. Inspection records shall be maintained for a minimum period of 24 months for portable equipment.

(6) All equipment carried on fire apparatus or designated for training shall be tested at least annually in accordance with manufacturers’ instructions and applicable standards.

(7) Fire fighting apparatus and equipment found to be defective or in unserviceable condition shall be removed from service or repaired or replaced.

R 408.17463. General utility ropes, life safety ropes, harnesses, and hardware.

Rule 7463. (1) All life safety ropes, harnesses, and hardware used by employees shall meet the requirements of the national fire protection association standard NFPA 1983: standard on “Fire Service Life Safety Rope and System Components,” 1995 edition, which is adopted by reference in R 408.17405.

(2) During fall arrest or repelling operations, an employee shall ensure that life safety harnesses are used as specified in the national fire protection association standard NFPA 1983: standard on “Fire Service Life Safety Rope and System Components,” 1995 edition, which is adopted by reference in R 408.17405.

(3) Natural fiber ropes shall be inspected visually after each use for all the following conditions:

(a) Externally for abrasions, cut or broken fibers, decay, burns, lack of strength, softness, variation in size or roundness of the strands, and for mildew or mold.

(b) Internally annually, by separating the strands at 3-foot intervals, for broken fibers, presence of grit, mildew or mold, color change of the fibers, or powdering and short, loose fibers.

(4) A natural fiber rope that has any of the conditions described in subrule (3)(a) and (b) of this rule shall be replaced or repaired.

(5) Synthetic rope shall be inspected visually after each use for all of the following conditions:

(a) Abrasions.

(b) Cut or broken fibers.

(c) Burns.

(d) Melted fibers.

(e) Variations in the size or roundness of the strands.

(6) A synthetic rope that has any of the conditions specified in subrule (5) of this rule shall be replaced or returned to the manufacturer for repair.

Appendix A

Training Reference

The following appendix is a guideline listing mandatory and non-mandatory training provisions from a number of state requirements and is intended to assist employers and employees in complying with these requirements.

TRAINING / REFERENCE	JOB DUTY	LINE PERSONNEL			COMMAND PERSONNEL		
		FIRE FIGHTER (FULL-TIME)	FIRE FIGHTER (PART-TIME)	APPARATUS DRIVER/OPERATOR	COMPANY OFFICER	SUPERVISORY OFFICER	ADMINISTRATIVE OFFICER
Personal Protective Equipment – MIOSHA OH Part 33 and MIOSHA GI Part 74							
Initial Training: Provide basic training for understanding, knowledge, and skills		X	X	X	X	X	X
Continuing Education: As often as necessary		X	X	X	X	X	X
Respiratory Protection - MIOSHA OH Part 451 and MIOSHA GI Part 74							
Initial Training: Evaluation required to ensure safe usage		X	X	X	X	X	X
Continuing Training: At least annually		X	X	X	X	X	X
Hazardous Waste Operations and Emergency Response – MIOSHA OH Part 432							
Initial Training: 24 hours		X	X	X	X	X	X
Annual Training: As required to maintain competency		X	X	X	X	X	X
Bloodborne Infectious Diseases - MIOSHA OH Part 554							
Initial Training: As required		X	X	X	X	X	X
Annual Training: As required		X	X	X	X	X	X
Fire Fighter I - 1966 Public Act 291 29.369 (6)							
Initial Training: 152 hours		X	X	X	X	X	X
Fire Fighter II - 1966 Public Act 291 29.369 (5)							
Initial Training: 75 hours		X			X	X	X
Federal OSHA Respiratory Protection Standard, 29 CFR 1910.134(g)(4) and 29 CFR 1910.155(c)(26):Two-in/Two-out Rule							

TRAINING / REFERENCE	JOB DUTY	LINE PERSONNEL			COMMAND PERSONNEL		
		FIRE FIGHTER (FULL-TIME)	FIRE FIGHTER (PART-TIME)	APPARATUS DRIVER/OPERATOR	COMPANY OFFICER	SUPERVISORY OFFICER	ADMINISTRATIVE OFFICER
	Initial Training: As required	X	X	X	X	X	X
	Annual Training: As required	X	X	X	X	X	X
	Fire Fighting – MIOSHA GI Part 74, Rule 408.17411						
	Initial Training: Fire Fighter I / Fire Fighter II	X	X	X	X	X	X
	Continued training to cover all expected duties on a 3 year cycle, unless otherwise specified	X	X	X	X	X	X
	MFFTC Drivers Training - ACT 300 of 1949 and Act 346						
	Initial Training: 6 hrs. + practical road test + 10 hrs. supervised driving			X	X	X	X
	Annual Training: As needed to maintain competency			X	X	X	X
	NIMS IS 700						
	Initial Training: 3 hours	X	X	X	X	X	X
	NIMS IS 800						
	Initial Training: 3 hours	X	X	X	X	X	X
	NIMS 300						
	Initial Training: 24 hours				X	X	X
	NIMS 400						
	Initial Training: 20 hours					X	X
	NIMS ICS for the Fire Service						
	Initial Training: 16 hours.	X	X	X	X	X	X
	Annual Training: As required to maintain competency	X	X	X	X	X	X
	MFFTC Company Officer I and II Program						
	Initial Training: As required and prerequisites				X	X	X
	Annual Training: As needed				X	X	X
	MFFTC Fire Officer III Program						
	Initial Training: As required					X	X
	Annual Training: As needed					X	X
	MFFTC Fire Officer IV Program						
	Initial Training: As adopted						X
	Annual Training: As adopted						X

JOB DUTY	LINE PERSONNEL				COMMAND PERSONNEL		
	FIRE FIGHTER (FULL-TIME)	FIRE FIGHTER (PART-TIME)	APPARATUS DRIVER/OPERATOR		COMPANY OFFICER	SUPERVISORY OFFICER	ADMINISTRATIVE OFFICER
TRAINING / REFERENCE							
Recognition of High Voltage							
Initial Training: As necessary	X	X	X		X	X	X
Annual Training: Yes	X	X	X		X	X	X
Review of NFPA Safety Standards - NFPA 1500							
Initial Training: As necessary for safety						X	X
Annual Training: As necessary for safety						X	X

JOB DUTY	LINE PERSONNEL				COMMAND PERSONNEL		
	FIRE FIGHTER (FULL-TIME)	FIRE FIGHTER (PART-TIME)	APPARATUS DRIVER/OPERATOR		COMPANY OFFICER	SUPERVISORY OFFICER	ADMINISTRATIVE OFFICER
TRAINING / REFERENCE							
Michigan Fire Prevention Code - Public Act 207 of 1941							
Initial Training: General review						X	X
Annual Training: General review						X	X
Permit-Required Confined Spaces – MIOSHA GI Part 90							
Initial Training: Provide basic training for understanding, knowledge, skills and locations	X	X	X		X	X	X
Annual Training: As needed	X	X	X		X	X	X
Review of MIOSHA General Industry Safety Part 74							
Initial Training: Knowledge and review	X	X	X		X	X	X
Annual Training: As needed	X	X	X		X	X	X
Hazard Materials Site Specific Response Plan - Hazwoper 1910.120, PA 154, Sara Title III							
Initial Training: If applicable, on all sites	X	X	X		X	X	X
Annual Training: As required	X	X	X		X	X	X
Terrorism Awareness							
Initial Training: 4 hours	X	X	X		X	X	X
Annual Training: As needed	X	X	X		X	X	X
Hazard Communication – MIOSHA OH Part 430 - Employee Right to Know							
Initial Training: As required	X	X	X		X	X	X
Annual Training: As needed	X	X	X		X	X	X
Hazard Communication – MIOSHA OH Part 430 - Fire Fighter Right to Know							
Initial Training: As required – See Fire Marshal Bulletin 9	X	X	X		X	X	X
Annual Training: As needed	X	X	X		X	X	X
CPR and AED							
Initial Training: As required	X	X	X		X	X	X
Annual Training: As needed for recertification	X	X	X		X	X	X

Job Duties Defined:

Fire Fighter (Full-Time) – An individual who is a career fire fighter.

Fire Fighter (Part-Time; For Pay or Volunteer) – An individual who is not a career fire fighter.

Apparatus Driver/Operator – An individual who drives, operates, or both emergency apparatus.

Company Officer – is a supervisor of a crew or company of personnel.

Supervisory Officer – is responsible for assuming command to allow company officers to directly supervise personnel.

Administrative Officer – this duty involves general administrative functions and the development, implementation, or both, of departmental policies and procedures.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

Filed with the Secretary of State on April 29, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154, MCL 408.1019 and 408.1021; and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.42209, R 408.42213, R 408.42223, R 408.42225, and R 408.42238 of the Michigan Administrative Code are amended as follows:

PART 22. SIGNALS, SIGNS, TAGS, AND BARRICADES

R 408.42209 Adopted and referenced standards.

Rule 2209. (1) American National Standards Institute (ANSI) International Safety Equipment Association (ISEA) standard 107 "High-Visibility Safety Apparel and Headwear," 2004 edition, is adopted by reference in these rules. This standard is available from Techstreet, 3916 Ranchero Drive, Ann Arbor, Michigan, 48108, USA, telephone number: 1-800-699-9277 or via the internet at website: www.techstreet.com; at a cost as of the time of adoption of these rules of \$36.00.

(2) The "Manual on Uniform Traffic Control Devices, Part 6: Temporary Traffic Control," 2011 Michigan/2009 Federal Edition is adopted by reference in these rules and is available at no cost from the Michigan Department of Transportation via the Internet at website: www.michigan.gov/mdot. The entire 2011 Michigan Manual on Uniform Traffic Control Devices (MMUTCD) may be purchased from the Michigan Department of Transportation, Cashiers Office, P.O. Box 30648, Lansing, Michigan 48909-8148; (517) 322-1676; at a cost of \$145.00 as of the time of adoption of these rules.

(3) The standards adopted in subrules (1) and (2) of this rule are also available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(4) Copies of the standards adopted in subrules (1) and (2) of this rule may be obtained from the publisher or may also be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost stated in subrules (1) and (2) of this rule, plus \$20 for shipping and handling.

(5) The following Michigan occupational safety and health standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing,

Michigan, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

- (a) Construction Safety Standard Part 1 “General Rules,” R 408.40101 to R 408.40134.
- (b) Construction Safety Standard Part 6 “Personal Protective Equipment,” R 408.40601 to R 408.40641.
- (c) Construction Safety Standard Part 10 “Lifting and Digging Equipment,” R 408.41001a to R 408.41099a.
- (d) Construction Safety Standard Part 13 “Mobile Equipment,” R 408.41301.
- (e) Construction Safety Standard Part 27 “Blasting and Use of Explosives,” R 408.42701 to R 408.42799.
- (f) Construction Safety Standard Part 30 “Telecommunications,” R 408.43001 to R 408.43006.
- (g) Construction Safety Standard Part 45 “Fall Protection,” R 408.44501 and R 408.44502.

R 408.42213 Definitions; E to T.

Rule 2213. (1) “Exit sign” means a sign used to designate a point of discharge from a room or building.

(2) “Handhold” means an affixed device or designated place where a person riding on a moving vehicle or on equipment to perform work can stabilize his or her position by gripping with his or her free hand or hands.

(3) “Out of order tag” means a tag used to indicate a machine is malfunctioning.

(4) “Safety instruction sign” means a sign used for general instruction or suggestion relative to safety.

(5) “Sign” means a board, sheet, poster, or placard displayed to convey information or direction either temporarily or permanently.

(6) “Signal” means a specific use of hands or a visual or audible device, such as a flashing light or horn, to warn of a possible or existing hazard.

(7) “Tag” means a piece of material, usually paper, metal, or plastic, attached to a piece of equipment or structure for the purpose of identification, instruction, or classification.

(8) “Traffic control devices” means all signs, signals, markings, and devices placed or erected for the purpose of regulating, warning, and guiding vehicular traffic and for providing employee protection in a work zone.

(9) “Traffic regulator” means a person who has been trained, properly attired, and equipped to regulate traffic flow to provide employee protection in a work zone.

(10) “Work zone” means a portion of a street or highway that meets any of the following:

(a) Is between a “work zone begins” sign and an “end road work” sign.

(b) For construction, maintenance, or utility work activities conducted by a work crew and more than 1 moving vehicle, is between a “begin work convoy” sign and an “end work convoy” sign.

(c) For construction, maintenance, surveying, or utility work activities conducted by a work crew and 1 moving or stationary vehicle exhibiting a rotating beacon or strobe light, is between either of the following points:

(i) A point that is 150 feet behind the rear of the vehicle or that is the point from which the beacon or strobe light is first visible on the street or highway behind the vehicle, whichever is closer to the vehicle.

(ii) A point that is 150 feet in front of the front of the vehicle or that is the point from which the beacon or strobe light is first visible on the street or highway in front of the vehicle, whichever is closer to the vehicle.

R 408.42223 Traffic control.

Rule 2223. (1) Traffic control devices shall be installed and maintained as prescribed in Part 6 of the 2011 MMUTCD, which is adopted by reference in R 408.42209.

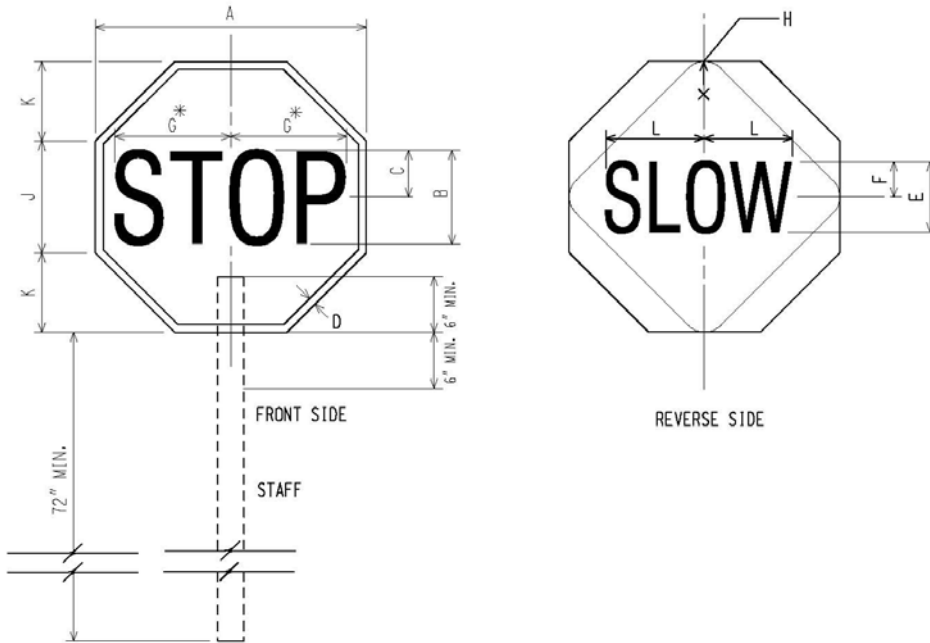
(2) An employer shall ensure that all operations have routine inspections of traffic control elements for acceptable levels of operation. When traffic exposures are such that signs, signals, or barricades do not provide the necessary protection on, or adjacent to, a highway or street, traffic regulators or other appropriate traffic controls shall be provided. Modification of traffic controls, such as additional signs or devices, or a change in work operations, shall be determined by a qualified person who is responsible for the project traffic control.

(3) Signaling directions by traffic regulators shall conform to the provisions of Part 6 of the 2011 MMUTCD, which is adopted by reference in R 408.42209.

(4) A hand-held paddle sign shall have 2 faces and it shall be attached to a staff of suitable design that will allow the entire unit to be held and controlled by 1 traffic regulator. The bottom of the sign shall be a minimum of 6 feet above the roadway surface. The sign shall be fastened to the staff so that no part of the legend is obscured. The portion of the staff within the sign face shall match the sign colors. The sign shall not be less than 18 by 18 inches and the letters shall have a minimum height of 6 inches. All letters and spacing between letters shall be as prescribed in Part 6 of the 2011 MMUTCD, which is adopted by reference in R 408.42209. The legend shall be optically centered horizontally on the sign. One side of the sign shall display a "STOP" face and the other side shall display the message "SLOW," except that if it is necessary for 1 traffic regulator to stop 2 directions of traffic at the same time, then a "STOP" face shall be used on each side of the sign. The "STOP" face shall have a red background with white letters and border. The "SLOW" face shall have an orange background with black letters and border. The shape of the sign shall be octagonal and the portions of the sign other than the diamond-shaped "SLOW" face shall be black. When the sign paddle is used during hours of darkness, the red and white of the "STOP" face and the orange of the "SLOW" face shall be reflectorized. Sheet metal or other light semi-rigid material may be used for mounting the "STOP" and "SLOW" faces.

(5) If signaling by a traffic regulator is necessary on construction operations that are not within a public right-of-way, then a hand-held paddle sign as specified in subrule (4) of this rule shall be used.

(6) The paddle sign shall be as follows:



R1-1a

*SPACING REDUCED 40%

SIGN	DIMENSIONS (INCHES)										
	A	B	C	D	E	F	G	H	J	K	L
MINIMUM	18	6 C	3	.5	6 B	3	7.75	1.5	7.5	5.25	6.25
SPECIAL	24	8 C	4	.62	8 B	3.5	10	1.5	9.87	7.06	8.25

Note: “Special” sign dimensions are recommended for single traffic regulator operations.

(7) In periods of darkness, appropriate lighting shall be used to illuminate the traffic regulator and the traffic regulator station. The lighting shall be as is required in Construction Safety Standard Part 1 General Rules, R 408.40133, as referenced in R 408.42209. Appropriate lighting means lighting that illuminates the traffic regulator so that he or she is visible to oncoming traffic and does not impair either the traffic regulator’s or motorists’ visibility due to blinding or shadowing.

(8) An employer shall provide, and a traffic regulator shall wear, high-visibility safety apparel that meets the Performance Class 2 or 3 requirements of the ANSI/ISEA 107, “High-Visibility Safety Apparel and Headwear,” 2004 edition, (see Section 1A.11), which is adopted by reference in R 408.42209, or equivalent revisions, and labeled as meeting the ANSI 107-2004 standard performance for Class 2 or 3 risk exposure.

(9) An employer shall require that the garment is inspected before each use for all of the following:

- (a) Wear.
- (b) Damage.
- (c) Fading.
- (d) Reflectivity.
- (e) Other deterioration.

Defective garments shall be reported to the employer and the employer shall either repair or replace the garment.

(10) A traffic regulator shall also wear head, eye, and foot protection as prescribed in Construction Safety Standard Part 6 Personal Protective Equipment, as referenced in R 408.42209.

R 408.42225 Placement, removal, relocation, and use of traffic control devices from a moving vehicle; handholds.

Rule 2225. (1) Construction and maintenance operations that require placement, relocation, or removal of pavement markings, or traffic control devices such as drums, barricades, cones, or signs, shall provide protection to an employee by any of the following methods:

- (a) Use of a seat and a seatbelt that shall be worn.
 - (b) A standard guardrail system as prescribed in Construction Safety Standard Part 45 Fall Protection, R 408.44501, as referenced in R 408.42209, which adopts C.F.R. §1926.502 et seq. by reference.
 - (c) A guardrail as described in subdivision (b) of this subrule may be modified by removing a section of the guardrail at the point of operation to facilitate the handling of traffic control devices, such as barrels, cones, or pavement markers. A hand hold shall be provided. This rule shall apply only to the placement, removal, relocation, and use of traffic control devices from a moving vehicle within the work zone.
 - (d) When placing or removing traffic control devices from a lower work platform, any combination of top rails, mid rails, side rails, seats, toe boards, or other combination of equivalent safeguards provided to the employee shall be used. A handhold shall be provided.
 - (e) Use of a positioning fall protection system that prevents the employee from falling from the vehicle. A handhold shall be provided.
 - (f) Use of other means that will provide equivalent fall protection for an employee may be used. Such a system shall be performance oriented and shall be designed so that it does not create a greater hazard to the employee.
- (2) A handhold shall be oriented and a size to promote gripping by wrapping fingers around not less than 270 degrees (3 sides) of the device or place designated. The handhold shall be capable of withstanding not less than 200 pounds of force in any direction and be free from rough edges, slippery surfaces, or hazardous projections. The handhold shall be in place and identified as such before employees are permitted to perform their assigned tasks while riding on moving vehicles.

R 408.42238 Signs for blasting and use of explosives.

Rule 2238. Where blasting and the use of explosives takes place, signs shall be as prescribed in Construction Safety Standard Part 27 Blasting and Use of Explosives, as referenced in R 408.42209.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

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(By authority conferred on the director of the department of licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154, MCL 408.1019 and 408.1021; and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.43204a, R 408.43207, and R 408.43212 of the Michigan Administrative Code are amended as follows:

PART 32. AERIAL WORK PLATFORMS

R 408.43204a Adopted and referenced standards.

Rule 3204a. (1) The standards specified in this rule, except for the standards specified in subrule (2) of this rule, are adopted by reference.

(a) The following American National Standard Institute (ANSI) standards are available from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at web-site: <http://global.ihs.com>; at a cost, as of the time of adoption of these rules, as stated in this subrule:

(i) ANSI A92.3, "Manually Propelled Elevating Aerial Platforms," 2006 edition. Cost: \$68.00.

(ii) ANSI A92.5, "Boom-Supported Elevating Work Platforms," 2006 edition. Cost: \$68.00.

(b) The following ANSI standards are available from the Scaffold and Access Industry Association, 400 W. Admiral Blvd., Kansas City, Missouri, 64106, USA, telephone number: 1-816-595-4860 or via the internet at website: www.shop.saiaonline.org; at a cost, as of the time of adoption of these rules, as stated in this subrule:

(i) ANSI A92.2, "Vehicle-Mounted Elevating and Rotating Aerial Devices," 2001 edition. Cost: \$45.00

(ii) ANSI A92.6, "Self-Propelled Elevating Work Platforms," 1999 edition. Cost: \$45.00

(c) The "Manual on Uniform Traffic Control Devices, Part 6: Temporary Traffic Control," 2011 Michigan/2009 Federal Edition is available at no cost from the Michigan Department of Transportation via the Internet at website: www.michigan.gov/mdot. The entire 2011 Michigan Manual on Uniform Traffic Control Devices (MMUTCD) may be purchased from the Michigan Department of Transportation, Cashiers Office, P.O. Box 30648, Lansing, Michigan 48909-8148; (517) 322-1676; at a cost of \$145.00 as of the time of adoption of these rules.

(d) The standards adopted in subrule 1(a) to (c) of this rule are also available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(e) Copies of the standards adopted in subrule 1(a) to (c) of this rule may be obtained from the publisher or may also be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in subrule 1(a) to (c), of this rule, plus \$20 for shipping and handling.

(2) The following Michigan Occupational Safety and Health Standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at web-site: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) Construction Safety Standard Part 6. Personal Protective Equipment, R 408.40601 to R 408.40641.

(b) Construction Safety Standard Part 10. Lifting and Digging Equipment, R 408.41001a to R 408.41099a.

(c) Construction Safety Standard Part 13. Mobile Equipment, R 408.101301.

(d) Construction Safety Standard Part 22. Signals, Signs, Tags, and Barricades, R 408.42201 to R 408.42243.

(e) Construction Safety Standard Part 45. Fall Protection, R 408.44501 to R 408.44502.

(f) General Industry Safety Standard Part 7. Guards for Power Transmission, R 408.10701 to R 408.10765.

R 408.43207 Permits; training.

Rule 3207. (1) An employer shall provide the operator of an aerial work platform with an aerial work platform permit.

(2) The requirements of subrule (8)(a), (b), (c), and (d) of this rule shall be met before an employee is issued a permit.

(3) A permit shall be carried by the operator or be available at the job site and shall be displayed upon request by a department of licensing and regulatory affairs representative.

(4) A permit shall indicate the type of aerial work platforms an operator has been trained on and is qualified to operate.

(5) A permit to operate an aerial work platform is valid only when performing work for the employer who issued the permit. A permit shall be issued for a period of not more than 3 years.

(6) A permit shall contain all of the following information (see sample permit):

(a) Firm name.

(b) Operator's name.

(c) Name of issuing authority. (Authorized by)

(d) The following types of aerial work platform the operator is authorized to operate:

(i) Vehicle-mounted elevating work platform such as the following:

(A) Extensible boom aerial devices.

(B) Aerial ladders.

(C) Actuating boom aerial devices.

(D) Vertical towers.

(ii) Manually propelled elevating work platforms.

(iii) Boom-supported elevating work platforms.

(iv) Self-propelled elevating work platforms.

(e) Date issued.

(f) Expiration date.

(7) The following is a sample permit:

SAMPLE PERMIT

AERIAL WORK PLATFORM PERMIT

(Firm Name)

(Name)

Type of aerial work platform authorized to operate:

Date Issued	Type	Authorized by	Expiration Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(8) An employer shall provide each employee who will operate the aerial work platform with instruction and training regarding the equipment before a permit is issued or reissued. Such instruction and training shall ensure that each operator is in compliance with the minimum following provisions:

- (a) Is instructed by a qualified person in the intended purpose and function of each of the controls.
- (b) Is trained by a qualified person or reads and understands the manufacturer's or owner's operating instructions and safety rules.
- (c) Understands by reading or by having a qualified person explain, all decals, warnings, and instructions displayed on the aerial work platform.
- (d) Reads and understands the provisions of this subrule and subrules (1) to (7) and (9) of this rule or be trained by a qualified person on their content.
- (9) The manufacturer's operating instructions and safety rules shall be provided and maintained in a legible manner on each unit by the employer.

R 408.43212 Vehicles; traffic control.

Rule 3212. (1) Before moving a vehicle supporting an aerial ladder for highway travel, employees shall secure ladders in the lower position and shall use the manually operated device at the base of the ladder, or other effective means to prevent elevation or rotation of the ladder.

(2) Before moving a vehicle supporting an aerial lift for travel, employees shall inspect the boom to ensure that it is properly cradled and the outriggers are in the stowed position, except as provided in subrule (3) of this rule.

(3) When a boom is elevated with employees in working position, the vehicle supporting an aerial device shall not be moved unless the equipment is specifically designed for this type of operation and meets the requirements of R 408.43205.

(4) Before and during travel, except as provided for horizontal movement in R 408.43216(9), an operator shall do all of the following:

- (a) Inspect to see that booms, platforms, aerial ladders, or towers are properly cradled or secured.

- (b) Ensure that outriggers are in a stored position.
- (c) Limit travel speed according to the following factors:
 - (i) Condition of the surface.
 - (ii) Congestion.
 - (iii) Slope.
 - (iv) Location of personnel.
 - (v) Other hazards.

(5) An employer shall ensure that operators of an aerial work platform over or adjacent to any public or private roadway maintain adequate clearances of all portions of the aerial work platform to prevent being struck by vehicular traffic.

(6) When aerial work platforms are in use, all traffic control requirements shall be in compliance with Part 6 of the 2011 Michigan Manual on Uniform Traffic Control Devices (MMUTCD), which is adopted in R 408.43204a, and Construction Safety Part 22. Signals, Signs, Tags, and Barricades, as referenced in R 408.43204a.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS

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These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16 and 21 of 1974 PA 154, MCL 408.1016 and 408.1021; and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.15802, R 408.15810, R 408.15815, 408.15821, R 408.15831 and R 408.15833 of the Michigan Administrative Code are amended as follows:

PART 58. AERIAL WORK PLATFORMS

R 408.15802 Equipment covered.

Rule 5802. These rules apply to equipment that has a primary function of elevating personnel, together with their tools and necessary materials, on a platform, which is mechanically positioned. The units covered are described by the following American National Standards Institute Standards:

(a) ANSI standard A92.2 2001 edition, "Vehicle-Mounted Elevating and Rotating Aerial Devices," which is adopted by reference in R 408.15810. This standard applies to vehicle-mounted devices installed on commercial chassis and covers the following type of units (See figure 1):

(i) Extensible boom aerial devices.

(ii) Aerial ladders.

(iii) Articulating boom aerial devices.

(iv) Vertical towers.

(v) A combination of any of the equipment specified in paragraphs (i) to (iv) of this subdivision.

(b) ANSI standard A92.3 2006 edition, "Manually Propelled Elevating Aerial Platforms", which is adopted by reference in R 408.15810. This standard applies to work platforms which are manually propelled, which are vertically adjustable by manual or powered means, and which may be towed or manually moved horizontally on wheels or casters that are an integral part of the work platform base. (See figure 2).

(c) ANSI standard A92.5 2006 edition, "Boom-Supported Elevating Work Platforms", which is adopted by reference in R 408.15810. This standard applies to all integral frame, boom-supported elevating work platforms which telescope, articulate, rotate, or extend beyond the base dimensions. (See figure 3).

(d) ANSI standard A92.6 1999 edition, "Self-Propelled Elevating Work Platforms," which is adopted by reference in R 408.15810. This standard applies to self-propelled vertically adjustable integral chassis work platforms. Such work platforms are power operated with primary controls for all movement operated from the platform. (See figure 4).

R 408.15810 Adopted and referenced standards.

Rule 5810. (1) The standards specified in this rule, except for the standards specified in subrule (2) of this rule, are adopted by reference.

(a) The following ANSI standards are available from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at web-site: <http://global.ihs.com>; at a cost, as of the time of adoption of these rules, as stated in this subrule:

(i) ANSI A92.2, "Standard for Vehicle-Mounted Elevating and Rotating Work Platforms," 1969 edition. Cost: \$20.00.

(ii) ANSI A92.3, "Manually Propelled Elevating Aerial Platforms", 2006 edition. Cost: \$68.00.

(iii) ANSI A92.5, "Boom-Supported Elevating Work Platforms", 2006 edition. Cost: \$68.00.

(b) The following ANSI standards are available from the Scaffold and Access Industry Association, 400 W. Admiral Blvd., Kansas City, Missouri, 64106, USA, telephone number: 1-816-595-4860 or via the internet at website: www.shop.saiaonline.org; at a cost, as of the time of adoption of these rules, as stated in this subrule:

(i) ANSI A92.2, "Vehicle-Mounted Elevating and Rotating Aerial Devices," 2001 edition. Cost: \$45.00.

(ii) ANSI A92.3, "Manually Propelled Elevating Work Platforms", 1990 edition. Cost: \$45.00.

(iii) ANSI A92.5, "Boom-Supported Elevating Work Platforms", 1992 edition. Cost: \$45.00.

(iv) ANSI A92.6, "Self-Propelled Elevating Work Platforms," 1999 edition. Cost: \$45.00.

(c) The "Manual on Uniform Traffic Control Devices, Part 6: Temporary Traffic Control," 2011 Michigan/2009 Federal Edition is available at no cost from the Michigan Department of Transportation via the Internet at website: www.michigan.gov/mdot. The entire 2011 Michigan Manual on Uniform Traffic Control Devices (MMUTCD) may be purchased from the Michigan Department of Transportation, Cashiers Office, P.O. Box 30648, Lansing, Michigan 48909-8148; (517) 322-1676; at a cost of \$145.00 as of the time of adoption of these rules.

(d) The standards adopted in subrule 1(a) to (c) of this rule are also available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(e) Copies of the standards adopted in subrule 1(a) to (c) of this rule may be obtained from the publisher or may also be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in subrule 1(a) through (c) of this rule, plus \$20 for shipping and handling.

(2) The following Michigan Occupational Safety and Health Standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at web-site: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) General Industry Safety Standard Part 7. Guards for Power Transmission, R 408.10701 to R 408.10765.

(b) General Industry Safety Standard Part 21. Powered Industrial Trucks, R 408.12101 to R 408.12193.

(c) General Industry Safety Standard Part 33. Personal Protective Equipment, R 408.13301 to R 408.13398.

(d) General Industry Safety Standard Part 53. Tree Trimming and Removal, R 408.15301 to R 408.15363.

(e) General Industry Safety Standard Part 74. Fire Fighting, R 408.17401 to R 408.17464.

(f) Construction Safety Standard Part 22. Signals, Signs, Tags, and Barricades, R 408.42201 to R 408.42243.

(g) Construction Safety Standard Part 45. Fall Protection, R 408.44501 to R 408.44502.

R 408.15815 Training; permits.

Rule 5815. (1) An employer shall provide each employee who will operate the aerial work platform with instruction and training regarding the equipment before a permit is issued or reissued. Such instruction and training shall include the following:

(a) Instruction by a qualified person in the intended purpose and function of each of the controls.

(b) Training by a qualified person or reading and understanding the manufacturer's or owner's operating instructions and safety rules.

(c) Understanding by reading or by having a qualified person explain, all decals, warnings, and instructions displayed on the aerial work platform.

(d) Reading and understanding the provisions of this subrule and subrules (1) to (9) of this rule or be trained by a qualified person on their content.

(2) An employer shall provide the operator of an aerial work platform with an aerial work platform permit.

(3) The requirements of subrule (1)(a), (b), (c), and (d) of this rule shall be met before an employee is issued a permit.

(4) A permit shall be carried by the operator or be available at the job site/work place and shall be displayed upon request by a department of licensing and regulatory affairs representative.

(5) A permit shall indicate the type of aerial work platforms an operator has been trained on and is qualified to operate.

(6) A permit to operate an aerial work platform is valid only when performing work for the employer who issued the permit. A permit shall be issued for a period of not more than 3 years.

(7) A permit shall contain all of the following information (see sample permit):

(a) Firm name.

(b) Operator's name.

(c) Name of issuing authority. (Authorized by).

(d) The following types of aerial work platforms the operator is authorized to operate:

(i) Vehicle-mounted elevating work platform such as:

(1) Extensible boom aerial devices.

(2) Aerial ladders.

(3) Articulating boom aerial devices.

(4) Vertical towers.

(ii) Manually propelled elevating work platforms.

(iii) Boom-supported elevating work platforms.

(iv) Self-propelled elevating work platforms.

(e) Date issued.

(f) Expiration date.

(8) The following is a sample permit:

SAMPLE PERMIT

AERIAL WORK PLATFORM PERMIT

(Firm Name)

(Name)

Type of aerial work platform authorized to operate:

Date Issued	Type	Authorized by	Expiration Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(9) The manufacturer's operating instructions and safety rules shall be provided and maintained in a legible manner on each unit by the employer.

R 408.15821 Construction, modification, and remounting.

Rule 5821. (1) Aerial work platforms modified, remounted, designed, constructed, and tested after December 28, 1974, but before the effective date of this rule, shall be in compliance with the requirements of the following applicable American National Standards Institute Standards:

- (a) ANSI standard A92.2, "Standard for Vehicle-Mounted Elevating and Rotating Work Platforms," 1969 edition.
- (b) ANSI standard A92.3, "Manually Propelled Elevating Work Platforms", 1990 edition.
- (c) ANSI standard A92.5, "Boom-Supported Elevating Work Platforms", 1992 edition.
- (d) ANSI standard A92.6, "Self-Propelled Elevating Work Platforms", 1999 edition.

These standards are adopted by reference in R 408.15810.

(2) A permanent label or tag shall be affixed to an aerial work platform modified, remounted, designed, constructed, or tested after March 28, 1975, but before the effective date of these rules, certifying compliance with subrule (1) of this rule.

(3) Aerial work platforms modified, remounted, designed, constructed, and tested, after January 1, 2007, shall be in compliance with the requirements of the following applicable American National Standards Institute Standards:

- (a) ANSI standard A92.2, "Vehicle-Mounted Elevating and Rotating Aerial Devices", 2001 edition.
- (b) ANSI standard A92.3, "Manually Propelled Elevating Aerial Platforms", 2006 edition.
- (c) ANSI standard A92.5, "Boom-Supported Elevating Work Platforms", 2006 edition.
- (d) ANSI standard A92.6, "Self-Propelled Elevating Work Platforms", 1999 edition.

These standards are adopted by reference in R 408.15810.

(4) An aerial work platform shall bear a permanent plate stating the designed rating capacity.

(5) An aerial work platform shall be mounted on a vehicle capable of sustaining, or reinforced to sustain, the imposed load. The vehicle shall be a stable support for the aerial device.

(6) The lifting and outrigger system of an aerial work platform shall be equipped with a means, such as, but not limited to, a pilot operated check valve to ensure that the system will not permit the work platform to drop in a free fall in event of a power or hydraulic line failure.

(7) Aerial work platforms shall not be field-modified for uses other than those intended by the manufacturer, unless the modification has been certified in writing by the manufacturer or by any other equivalent entity, such as a nationally recognized testing laboratory, to be in compliance with the

applicable ANSI standard and this rule, and to be at least as safe as the equipment was before modification.

R 408.15831 Inspection, maintenance; testing.

Rule 5831. An employer shall comply with all of the following requirements:

(a) Each aerial work platform shall be inspected, maintained, repaired, and kept in proper working condition in accordance with the manufacturers or owner's operating or maintenance and repair manual or manuals.

(b) Any aerial work platform found not to be in a safe operating condition shall be removed from service until repaired. All repairs shall be made by an authorized person in accordance with the manufacturer's or owner's operating or maintenance and repair manual or manuals.

(c) If the aerial work platform is rated and used as an insulated aerial device, the electrical insulating components shall be tested for compliance with the rating of the aerial work platform in accordance with ANSI standard A92.2 2001 edition "Vehicle-Mounted Elevating and Rotating Aerial Devices," which is adopted by reference in R 408.15810. Testing shall comply with all of the following provisions:

(i) The test shall be performed not less than annually.

(ii) Written, dated, and signed test reports shall be made available by the employer for examination by a department representative.

(iii) The insulated portion of an aerial device shall not be altered in any manner that might reduce its insulating value.

(d) All danger, caution, and control markings and operational plates shall be legible and not obscured.

R 408.15833 Vehicles; traffic control.

Rule 5833. (1) Before moving a vehicle supporting an aerial ladder for highway travel, employees shall secure ladders in the lower position, and shall use the manually operated device at the base of the ladder, or other effective means to prevent elevation or rotation of the ladder.

(2) Before moving a vehicle supporting an aerial lift for travel, employees shall inspect the boom to ensure that it is properly cradled and the outriggers are in the stowed position, except as provided in subrule (3) of this rule.

(3) When a boom is elevated with employees in working position, the vehicle supporting an aerial device shall not be moved unless the equipment is specifically designed for this type of operation and meets the requirements of R 408.15821.

(4) Before and during travel, except as provided for horizontal movement in R 408.15839(9), an operator shall do all of the following:

(a) Inspect to see that booms, platforms, aerial ladders, or towers are properly cradled or secured.

(b) Ensure that outriggers are in a stored position.

(c) Limit travel speed according to the following factors:

(i) Condition of the surface.

(ii) Congestion.

(iii) Slope.

(iv) Location of personnel.

(v) Other hazards.

(5) An employer shall ensure that operators of an aerial work platform over or adjacent to any public or private roadway maintain adequate clearances of all portions of the aerial work platform to prevent being struck by vehicular traffic.

(6) When aerial work platforms are in use, all traffic control requirements shall be in compliance with Part 6 of the 2011 Michigan Manual on Uniform Traffic Control Devices (MMUTCD), which is

adopted in R 408.15810, and Construction Safety Part 22. Signals, Signs, Tags, and Barricades, R 408.42201 to R 408.42243, as referenced in R 408.15810.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

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These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.41410, R 408.41462, R 408.41464, R 408.41465, R 408.41466, R 408.41467, R 408.41472, R 408.41475, R 408.41476, R 408.41477, R 408.41478, and R 408.41482 of the Michigan Administrative Code are amended, R 408.41075a and R 408.41077a are added to the Code, and R 408.41468 of the Code is rescinded as follows:

PART 14. TUNNELS, SHAFTS, CAISSONS, AND COFFERDAMS

R 408.41410 Adoption of standards by reference.

Rule 1410. (1) The standards specified in this rule, except for the standards specified in subrules (2) and (3) of this rule, are adopted by reference.

(a) The following standards are available from the United States Government Bookstore, Patrick V. McNamara Federal Building, Suite 160, 477 Michigan Avenue, Detroit, Michigan 48226; or via the internet at web-site: <http://bookstore.gpo.gov>; or at the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at a cost as of the time of adoption of these amendments, as stated in this subdivision.

(i) The provisions of 30 C.F.R. Parts 1-199, Mineral Resources, revised July 1, 2000. cost: \$4.00.

(ii) The provisions of 42 C.F.R. Part 84, Public Health Service, revised October 1, 2001. Cost: \$4.00.

(2) The Bureau of Construction Codes, Elevator Safety Board 1967 PA 227, MCL 408.801 to 408.824 and R 408.8511 to R 408.8524 are referenced in these rules and are available from the Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Elevator Safety Division, P.O. Box 30255, Lansing, Michigan 48909; or via the internet at web-site: www.michigan.gov/bcc; or from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at no cost as of the time of adoption of these amendments.

(3) The following occupational safety and health administrative standards are referenced in these rules and are available from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA

Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143; or via the internet at web-site: www.michigan.gov/miosha, at no cost as of the time of adoption of these amendments:

- (a) Construction safety standard Part 1. General Rules, R 408.40101 et seq. of the Michigan administrative code.
- (b) Construction safety standard Part 7. Welding and Cutting, R 408.40701 et seq. of the Michigan administrative code.
- (c) Construction safety standard Part 9. Excavation, Trenching, and Shoring, R 408.40901 et seq. of the Michigan administrative code.
- (d) Construction safety standard Part 10. Lifting and Digging Equipment, R 408.41001 et seq. of the Michigan administrative code.
- (e) Construction safety standard Part 16. Power Transmission and Distribution, R 408.41601 et seq. of the Michigan administrative code.
- (f) Construction safety standard Part 17. Electrical Installations, R 408.41701 et seq. of the Michigan administrative code.
- (g) Construction safety standard Part 18. Fire Protection and Prevention, R 408.41801 et seq. of the Michigan administrative code.
- (h) Construction safety standard Part 21. Guarding of Walking and Working Areas, R 408.42101 et seq. of the Michigan administrative code.
- (i) Construction safety standard Part 22. Signals, Signs, Tags, and Barricades, R 408.42201 et seq. of the Michigan administrative code.
- (j) Construction safety standard Part 27. Blasting and Use of Explosives, R 408.42701 et seq. of the Michigan administrative code.
- (k) Construction safety standard Part 45. Fall Protection, R 408.44501 et seq. of the Michigan administrative code.
- (l) Occupational health standard Part 451. Respiratory Protection, R 325.60051 et seq. of the Michigan administrative code.
- (m) Occupational health standard Part 665. Underground Construction, Caissons, Cofferdams, and Compressed Air, R 325.62991 et seq. of the Michigan administrative code.

R 408.41462 Safety generally.

Rule 1462. (1) The employer shall inform oncoming shifts of any hazardous occurrences or conditions that have affected or might affect employee safety, including liberation of gas, equipment failures, earth or rock slides, cave-ins, floodings, fires, or explosions.

(2) A safe means of egress and access to all work areas shall be provided and maintained free of hazards.

(3) When work is not being performed, access to an underground opening shall be covered, bulkheaded, fenced off, or restricted by gates or doors and appropriately posted.

(4) Any section of tunnel that is not in use shall be barricaded to prevent ingress by an unauthorized employee.

(5) Construction of a trench, manhole, or other opening for use in a tunnel or shaft operation shall be as prescribed in construction safety standard Part 9. Excavation, Trenching, and Shoring and construction safety standard Part 45. Fall Protection, which is referenced in R 408.41410.

(6) An area subject to subsidence that is hazardous to an employee shall be fenced and appropriately posted.

(7) Each operation shall have a check-in and check-out system that will provide positive identification of an employee by number or name and will identify the location of each employee who is underground. An accurate record shall be kept on the surface. However, a check-in and check-out system is not required when the construction of underground facilities that are designed for human occupancy has been completed so that the permanent environmental controls are effective and the remaining construction activity will not cause any environmental hazard or structural failure within the facilities.

(8) All employees shall be instructed in the recognition and avoidance of hazards that are associated with all of the following underground construction activities:

- (a) Air monitoring.
- (b) Ventilation.
- (c) Illumination.
- (d) Communications.
- (e) Flood control.
- (f) Mechanical equipment.
- (g) Personal protective equipment.
- (h) Explosives.
- (i) Fire prevention and protection.
- (j) Emergency procedures, including evacuation plans and check-in and check-out systems.

(9) The employer shall issue each employee a copy of the project's general safety rules before the employee commences work at the project.

(10) Each employer shall designate a qualified person who is responsible for administering the safety program. A written record shall be maintained of the safety training program.

(11) Before an employee enters a tunnel where the atmosphere may be hazardous due to a condition such as a deficiency of oxygen, or may be toxic in excess of the maximum allowable limits, the tunnel shall be tested and the results shall be recorded as prescribed in occupational health standard Part 665. Underground Construction, Caissons, Cofferdams, and Compressed Air, which is referenced in R 408.41410. The records shall be maintained at the jobsite. If the atmosphere is hazardous, either sufficient ventilation to eliminate the hazard shall be provided or respiratory equipment as prescribed by the department of licensing and regulatory affairs shall be worn.

(12) If an atmosphere is found to be explosive, then sparks, flame, and other sources of ignition shall be prohibited and ventilation shall be provided until the hazard has been reduced and maintained at or below the maximum allowable limits as prescribed by the department of licensing and regulatory affairs.

R 408.41464 Communication system; location; signals

Rule 1464. (1) In a tunnel that is more than 225 feet long, a communication system shall be provided at all of the following locations:

- (a) The working face.
- (b) The top of the shaft.
- (c) The bottom of the shaft.
- (d) The hoisting station, if provided.
- (e) Each 1,000 feet of tunnel.
- (f) The office, if provided. A public telephone or other communication system shall be provided or available to each tunnel project to secure outside emergency help.

(g) Hoist operators shall be provided with a closed-circuit voice communication system to each landing station. The system shall have speaker microphones located so that the operator can communicate with individual landing stations during hoist use.

(2) An employer shall establish and maintain direct communications for coordination of activities with other employers whose operations at the jobsite affect or may affect the safety of employees who are underground.

(3) If a tunnel is pressurized, then all of the following additional locations shall also be provided with a communication system:

- (a) The working chamber side of the manlock near the door.
- (b) The interior of all locks.
- (c) The lock attendant's station.
- (d) The compressor plant.
- (e) The first aid station.

(4) Communication systems shall be tested upon initial entry of each shift to the underground, and as often as necessary thereafter, to ensure that they are in working order.

(5) An employee who works alone underground in a hazardous location and who is both out of the range of natural unassisted voice communication and not under observation by other persons shall be provided with an effective means of obtaining assistance in an emergency.

(6) If a gassy condition exists, then all phones that are located within the tunnel shall conform to the United States Bureau of Mines Schedule 9b, Part 23 of the provisions of 30 C.F.R. Parts 1-199, Mineral Resources, revised July 1, 2000, which is adopted by reference in R 408.41410. The telephone or other signal communication systems shall be independent of the tunnel power supply and shall be installed so that the use or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

R 408.41465 Protective clothing or equipment.

Rule 1465. An employee working in a wet shaft, tunnel, or caisson shall wear safety toe rubber boots which have flat gripper-type soles and which are provided by the employer, at no expense to the employee.

R 408.41466 Electrical requirements.

Rule 1466. (1) A power line shall be well separated or insulated from water lines, telephone lines, and air lines.

(2) Lighting circuits shall be located so that the movement of personnel or equipment will not damage the circuits or disrupt service.

(3) Electrical equipment and wiring shall be installed and maintained as prescribed in the provisions of subparts F to J of part 77 of the provisions of 30 C.F.R. Parts 1-199, Mineral Resources, revised July 1, 2000, which is adopted by reference in R 408.41410. The provisions of subparts F to J are adopted by reference with the following amendments:

(a) Article 305-1(a) is amended to read as follows: Temporary electrical power and lighting installations shall be permitted during the period of construction, remodeling, maintenance, repair, or demolition of buildings, structures, equipment, or similar activities which are located at ground level and which are part of facilities used for the construction of tunnels, shafts, and cofferdams.

(b) Article 310-15, is amended to read as follows: The maximum continuous ampacities for copper, aluminum, and copper-clad aluminum conductors shall be as specified in table 310-16 to 310-19 and accompanying notes 1 to 12. Power and lighting circuits may be loaded to the maximum design temperatures of the wire or cable insulation under the following conditions:

- (i) A means shall be provided to disconnect the load if the feeder cable exceeds design temperature by more than 10% for 1 minute.
- (ii) Power cable shall have a grounding and a pilot wire that conforms to the Insulated Power Cable Engineers Association (IPCEA) type G grounded cable (G-GC) or equivalent.
- (iii) Power cable shall have a loose connector emergency shutdown ability.
- (iv) Power cable shall have a ground fault emergency shutdown ability.
- (v) Power cable shall have an arc between phases emergency shutdown ability.
- (c) Oil filled transformers shall not be used underground unless they are located in a fire-resistant enclosure suitably vented to the outside and surrounded by a dike to retain the contents of the transformer in the event of rupture.
- (4) All electrical power circuits that supply portable or hand-held tools, lights, or equipment shall be protected by approved ground-fault interrupters as prescribed in construction safety standard, Part 17. Electrical Installations, which is referenced in R 408.41410.
- (5) The regular system of illumination shall be supplemented by lighting that can be activated upon the failure of the regular system. Supplemental lighting, such as approved flashlights or lanterns, shall be sufficient to allow all employees to evacuate the tunnel.
- (6) Electrical installation in underground areas where oil, grease, or diesel fuel are stored shall be used only for lighting fixtures.
- (7) Lighting fixtures in storage areas, or within 25 feet (7.62 meters) of underground areas where oil, grease, or diesel fuel are stored, shall be approved for class I, division 2 locations, as prescribed in construction safety standard Part 17. Electrical Installation, which is referenced in R 408.41410.

R 408.41467 Fire prevention and protection.

Rule 1467. (1) The applicable requirements for fire prevention and protection as prescribed in R 408.41801 et seq., construction safety standard Part 18. Fire Prevention and Protection shall be complied with in all tunnel and shaft operations.

(2) Smoking and open flames are prohibited. An employer is responsible for collecting all personal sources of ignition, such as matches and lighters, from all persons. Welding and cutting, where required, shall be in compliance with the provisions of subrules (9), (10), (11), and (12) of this rule. A fire watch shall be maintained when hot work is performed.

(3) Not more than a 1-day supply of diesel fuel shall be stored in a tunnel or shaft. Gasoline or liquefied petroleum gas shall not be taken in a tunnel or shaft. Acetylene or methylacetylene propadiene stabilized gas may be used underground solely for welding, cutting, and other hot work and only as prescribed in construction safety standard Part 7. Welding and Cutting, which is referenced in R 408.41410.

(4) The piping of diesel fuel from the surface to an underground location is permitted only if all of the following provisions are complied with:

(a) Diesel fuel is contained at the surface in a tank with a maximum capacity that is not more than the amount of fuel required to supply, for a 24-hour period, the equipment that is serviced by the underground fueling station.

(b) The surface tank is connected to the underground fueling station of an acceptable pipe or hose system that is controlled at the surface by a valve and at the shaft bottom by a hose nozzle.

(c) The pipe is empty at all times, except when transferring diesel fuel from the surface tank to a piece of equipment in use underground.

(d) Hoisting operations in the shaft are suspended during refueling operations if the supply piping in the shaft is not protected from damage.

(e) Acetylene, liquefied petroleum gas, and methylacetylene propadiene stabilized gas may be used underground only for welding, cutting, and other hot work and only in accordance with the provisions of subrules (9), (10), (11), and (12) of this rule. Not more than the amount of fuel gas and oxygen cylinders necessary to perform welding, cutting, or other hot work during the next 24-hour period shall be permitted underground.

(f) Not more than the amount of fuel gas and oxygen cylinders necessary to perform welding, cutting, or other hot work during the next 24-hour period shall be permitted underground.

(5) Leaks and spills of flammable or combustible fluids shall be cleaned up immediately.

(6) Oil, grease, or diesel fuel that is stored in a tunnel or shaft shall be kept in tightly sealed containers in fire-resistant areas at safe distances from explosives, magazines, electrical installations, and shaft stations. Electrical installations in underground areas where oil, grease, or diesel fuel are stored shall be used only for lighting fixtures. Lighting fixtures in storage areas, or within 25 feet (7.62 meters) of underground areas where oil, grease, or diesel fuel are stored, shall be approved for class I, division 2 locations.

(7) Fire-resistant hydraulic fluids shall be used in hydraulically actuated underground machinery and equipment. For the purpose of this requirement, a fire-resistant hydraulic fluid means any liquid which has a flash point above 200 degrees Fahrenheit and which has a vapor pressure of not more than 40 p.s.i. (absolute) at 100 degrees Fahrenheit.

(8) An approved 4A:40B:C rating fire extinguisher or equivalent protection shall be provided at the drive pulley of an underground conveyor and at 300-foot intervals along the belt. A minimum of 2 2A-10BC approved fire extinguishers shall be provided at the tunneling machine.

(9) All of the following are additional requirements for gassy operations:

(a) Only acceptable equipment, maintained in suitable condition, shall be used in gassy operations.

(b) Mobile diesel-powered equipment used in gassy operations shall be either approved as prescribed in the requirements of 30 C.F.R. Part 36, Mineral Resources, revised July 1, 2000, which is adopted by reference in R 408.41410 or shall be demonstrated by the employer to be fully equivalent to the Mine Safety and Health Administration approved equipment and shall be operated in accordance with that part.

(c) Each entrance to a gassy operation shall be prominently posted with signs notifying all entrants of the gassy classification.

(10) Fire-resistant hydraulic fluids shall be used in hydraulically-actuated underground machinery and equipment unless such equipment is protected by a fire suppression system or by multipurpose fire extinguisher or fire extinguishers rated at of sufficient capacity for the type and size of hydraulic equipment involved, but rated at least 4A:40B:C.

(11) A noncombustible barrier shall be installed below welding or burning operations.

(12) In an underground operation, local gas checks shall be made before and during a welding or cutting operation and during a drilling operation that would penetrate the tunnel.

(13) Whenever 5% or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area or in the air return, steps shall be taken to increase ventilation air volume or otherwise control the gas concentration, unless the employer is operating in accordance with the potentially gassy or gassy operation requirements. Such additional ventilation controls may be discontinued when gas concentrations are reduced below 5% of the lower explosive limit, but shall be reinstituted whenever the 5% level is exceeded.

(14) Whenever 10% or more of the lower explosive limit for methane or other flammable gases is detected in the vicinity of welding, cutting, or other hot work, such work shall be suspended until the concentration of such flammable gas is reduced to less than 10% of the lower explosive limit.

(15) A fire watch shall be maintained around welding and cutting operations until all possibility of fire is eliminated. The fire watch shall be provided with a minimum of 1 approved 2A-10BC fire extinguisher.

(16) Flammable materials or supplies, other than those used during 1 shift, shall not be stored within 100 feet (30.48 meters) of any tunnel or shaft opening. If this is not feasible because of space limitations on the jobsite, then such materials may be located within the 100 foot limit, if both of the following provisions are complied with:

- (a) The materials are located as far as practicable from the opening.
- (b) A fire resistant barrier of not less than a 1-hour rating is placed between the stored material and the opening or additional precautions are taken that will protect the materials from ignition sources.

R 408.41468 Rescinded.

R 408.41472 Shafts; supports; inspections; lifelines.

Rule 1472. (1) A shaft that an employee is required to enter shall be provided with steel casing, concrete pipe, timber, or other material that is strong enough to support the surrounding earth.

(2) A shaft that is more than 5 feet in depth shall be braced to support the surrounding earth. The bracing shall be provided the full depth of the shaft, or, if rock is encountered, to not less than 5 feet into solid rock, and shall extend not less than 1 foot above the ground level.

(3) After a blasting operation, the bracing shall be inspected. If the bracing is found to be unsafe, then corrections shall be made before the shift operations are continued.

(4) A shaft or caisson shall be protected with a guardrail system as prescribed in construction safety standard Part 45. Fall Protection, which is referenced in R 408.41410, or barricaded as prescribed in construction safety standard Part 22. Signals, Signs, Tags, and Barricades, which is referenced in R 408.41410. A gate opening into the shaft shall be provided and shall be closed at all times, except when necessary to enter or leave the shaft or caisson.

R 408.41475 Haulage; inspection; braking; riding.

Rule 1475. (1) Haulage equipment that is to be used during a shift shall be inspected by a qualified person before the start of the shift. Known defects that affect the safety of employees shall be corrected before the equipment is used.

(2) A powered locomotive or other mobile equipment shall be provided with suitable brakes, an audible warning device for use by the operator as needed, and lights at both ends.

(3) Powered mobile haulage equipment that is subject to falling materials shall be equipped with a cab, canopy, or other protective device that is capable of protecting the operator from shifting or falling materials. For cabs where glazing is used, the glass shall be safety glass, or its equivalent, and shall be maintained and cleaned so that vision is not obstructed.

(4) Powered mobile equipment shall not be left unattended unless the power is off, all operating controls are in the neutral position, and the brakes are set or other equivalent precautions are taken to prevent rolling. The operating controls shall be designed to automatically return to a neutral position or shall be equipped with a deadman control.

(5) Backstops or automatic braking shall be installed on an inclined conveyor to prevent the conveyor from running out of control and creating a hazard for the employee.

(6) An employee shall not ride on either of the following unless specifically designed or adapted for transporting employees:

(a) A power-driven chain, belt, or bucket conveyor.

(b) Haulage equipment. An employee shall not ride haulage equipment unless it is equipped with seating for each passenger and protects passengers from being struck, crushed, or caught between other equipment or surfaces.

(7) An employer shall not use an endless belt-type man lift in underground construction.

(8) Cars that are dumped by hand shall be provided with tie-down chains or dumper blocks to prevent the cars from overturning.

(9) A rocker bottom or bottom-dump car shall be equipped with positive-locking devices.

(10) Equipment that is to be hauled shall be loaded or protected so as to prevent sliding or spillage.

(11) Parked rail haulage equipment shall be chocked or chained if subject to accidental movement.

(12) Berms, bumper blocks, safety hooks, or similar means shall be provided to prevent overtravel or overturning at dumping locations and, where necessary, at track dead ends.

(13) Supplies, materials, and tools, other than small hand tools shall not be transported with employees in the same car and shall not be transported on top of a locomotive.

(14) A train that is used on an incline which would cause the cars to run out of control shall, in addition to couplings, have safety chains, or the equivalent, to connect the cars and the power haulage equipment in a train. The safety chains or other connections shall be capable of maintaining connection between cars in the event of either coupler disconnect, failure, or breakage.

(15) When an employee is being transported in a train, the operator shall have clear vision beyond the forward end of the train for safe operation.

(16) Mobile equipment, including rail-mounted equipment, shall be stopped for manual connecting or service work.

(17) Employees shall not reach between moving cars during coupling operations.

(18) Couplings shall not be aligned, shifted, or cleaned when cars or locomotives are moving.

(19) Where switching facilities are available, occupied personnel cars shall be pulled, not pushed. If occupied personnel cars must be pushed and the visibility of the track is hampered, then a qualified person shall be stationed in the lead car to give signals to the locomotive operator.

R 408.41475a Hoisting unique to underground construction.

Rule 1475a. Except as modified by this standard, employers shall comply with all of the following:

(a) The requirements of construction safety standard Part 10. Lifting and Digging Equipment, which is referenced in R 408.41410, except that the limitation in R 408.41021a does not apply to routine access of employees to an underground worksite via a shaft.

(b) Ensure that material hoists comply with R 408.41065a, R 408.41070b, R 408.41074a, and R 408.41075a of construction safety standard Part 10. Lifting and Digging Equipment, which is referenced in R 408.41410.

(c) Ensure that personnel hoists comply with the personnel hoists requirements of R 408.41065a, R 408.41072a, R 408.41074a, and R 408.41075a and the elevator requirements of R 408.41065a, R 408.41074a, R 408.41075a of construction safety standard Part 10. Lifting and Digging Equipment, which is referenced in R 408.41410.

R 408.41476 General requirements for cranes and hoists.

Rule 1476. (1) Each safety device shall be checked by a competent person at least weekly during hoist use to ensure suitable operation and safe condition.

(2) Before hoisting personnel or material, the operator shall perform a test run of any cage or skip whenever it has been out of service for one complete shift, and whenever the assembly or components have been repaired or adjusted.

(3) An employee shall not be permitted to ride on a material hoist, unless the hoist is in compliance with the requirements of R 408.41478(1).

(4) Before maintenance, repairs, or other work is commenced in the shaft that is served by a hoist, the hoist operator shall be informed of the maintenance, repairs, or other work and given suitable instructions. A sign warning that work is being done in the shaft shall be installed at the shaft collar, at the operator's station, and at each underground landing.

(5) Employees who are at the bottom of an excavated shaft shall be protected from the movement of equipment, tools, or materials overhead or the shaft shall be vacated during the operations that may be hazardous to persons below.

(6) If an employee is raised or lowered in a shaft, then all other hoisting operations in the shaft shall be stopped until the employee has disembarked at the bottom or top of the shaft.

(7) When a stationary hoist is being used, the drum-operating lever shall be of a type that returns automatically to the "stop" position when the operator's hand is removed, unless, as a substitute, the throttle that controls the drum speed automatically stops the drum and slows the engine to idling speed when the throttle is released.

(8) Only wire rope shall be used for hoisting and it shall be properly secured at both the drum and cage or skip ends. When the hoist is in use, not less than 2 full turns shall remain on the conventional drum hoist to protect the end that fastens at the drum from an overload.

(9) The connection between the hoisting rope and the cage or skip shall be of a type to prevent the cage from spinning.

(10) All hoists shall be equipped with a landing level indicator at the operator's station. Marking the hoist rope does not satisfy this requirement.

(11) Limit switches shall be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(12) A warning light, suitably located to warn employees at the shaft bottom and subsurface shaft entrances, shall flash if a load is above the shaft bottom or subsurface entrances or if the load is being moved in the shaft. This subrule does not apply to fully enclosed hoistways.

(13) If a hoistway is not fully enclosed and employees are at the shaft bottom, then conveyances or equipment shall be stopped not less than 15 feet above the bottom of the shaft and held there until the signalperson at the bottom of the shaft directs the operator to continue lowering the load, except that the load may be lowered without stopping if the load or conveyance is within full view of a bottom signalperson who is in constant voice communication with the operator.

(14) Cage, skips, and load connections to the hoist rope shall be made so that the force of the hoist pull, vibration, misalignment, release of lift force, or impact will not disengage the connection. Moused or latched open-throat hooks do not meet this requirement.

(15) When using wire rope wedge sockets, means shall be provided to prevent wedge escapement and to ensure that the wedge is properly seated.

(16) Hoists shall be designed so that the load hoist-drum is powered in both directions of rotation and so that the brakes are automatically applied upon power release or failure.

(17) If a crane is used for both personnel hoisting and material hoisting, then the load and speed ratings for personnel and for materials shall be assigned to the equipment.

(18) Employees shall not ride on top of any cage, skip, or bucket, except when necessary to perform inspection or maintenance of the hoisting system, in which case they shall be protected by a body belt/harness fall prevention system.

(19) Material, tools, and supplies being raised or lowered, whether within a cage or otherwise, shall be secured or stacked in a manner to prevent the load from shifting, snagging, or falling into the shaft.

(20) Any connection between the hoisting rope and the cage or skip shall be compatible with the type of wire rope used for hoisting.

(21) Spin-type connections, where used, shall be maintained in a clean condition and protected from foreign matter that could affect their operation.

R 408.41477 Additional requirements for hoists.

Rule 1477. (1) A hoist used for raising or lowering materials in a shaft shall have a minimum factor of safety of 5, shall be designed and rated by a qualified engineer, and shall be constructed in accordance with the design. The design shall be constructed so that the hoist cannot exceed the maximum rated speed.

(2) The rated capacity of the hoist shall be posted at all working levels.

(3) To ensure suitable operation and safe condition of all functions and safety devices, each hoist assembly shall be inspected and load-tested to 100% of its rated capacity at the time of installation; after any repairs or alterations affecting its structural integrity; after the operation of any safety device; and annually when in use. The employer shall prepare a certification record which includes the date each inspection and load-test was performed; the signature of the person who performed the inspection and test; and a serial number or other identifier for the hoist that was inspected and tested. The most recent certification record shall be maintained on file until completion of the project.

(4) A qualified person who shall be designated by the employer, shall visually inspect the stationary hoist assembly, anchorages, and hoisting rope at the beginning of each shift.

(5) All unsafe conditions that are revealed by tests, checks, or inspections shall be corrected before use of the equipment.

(6) Hoist equipment and the operator shall be protected from inclement weather by a hoist house with a comfortable temperature maintained.

(7) Where glass is used in hoist house windows, the glass shall be safety glass or its equivalent.

(8) Hoist controls shall be arranged so that the operator can perform all operating cycle functions and reach the emergency power cutoff without having to reach beyond the operator's normal operating position.

(9) Controls for powered hoists shall be of the deadman-type with a non-locking switch or control.

(10) All hoists shall be equipped with landing level indicators at the operator's station. Marking the hoist rope does not satisfy this requirement.

(11) Material hoisting may be performed at speeds higher than the rated speed for personnel hoisting if the hoist and components have been designed for such higher speeds and if shaft conditions permit.

(12) Personnel and materials (other than small tools and supplies secured in a manner that will not create a hazard to employees) shall not be hoisted together in the same conveyance. However, if the operator is protected from the shifting of materials, then the operator may ride with materials in cages or skips which are designed to be controlled by an operator within the cage or skip.

(13) Line speed shall not exceed the design limitations of the systems.

(14) A fire extinguisher that is rated at least 2A:10B:C, multi-purpose, dry chemical, shall be mounted in each hoist house.

(15) Hoists shall be equipped with limit switches to prevent overtravel at the top and bottom of the hoistway.

(16) Hoist operators shall be provided with a closed-circuit voice communication system to each landing station, with speaker microphones located so that the operator can communicate with individual landing stations during hoist use.

(17) When sinking shafts 75 feet (22.86 m) or less in depth, cages, skips, and buckets that may swing, bump, or snag against shaft sides or other structural protrusions shall be guided by fenders, rails, ropes, or a combination of those means.

(18) When sinking shafts more than 75 feet (22.86 m) in depth, all cages, skips, and buckets shall be rope or rail guided to within a rail length from the sinking operation.

(19) Cages, skips, and buckets in all completed shafts, or in all shafts being used as completed shafts, shall be rope or rail-guided for the full length of their travel.

(20) Wire rope used in load lines of material hoists shall be capable of supporting, without failure, at least five times the maximum intended load or the factor recommended by the rope manufacturer, whichever is greater. Refer to R 408.41072a(14)(d) of construction safety standard Part 10. Lifting and Digging Equipment, which is referenced in R 408.41410, for design factors for wire rope used in personnel hoists. The design factor shall be calculated by dividing the breaking strength of wire rope, as reported in the manufacturer's rating tables, by the total static load, including the weight of the wire rope in the shaft when fully extended.

R 408.41477a Additional requirements for cranes.

Rule 1477a. Cranes shall be equipped with a limit switch to prevent overtravel at the boom tip. Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

R 408.41478 Additional requirements for personnel hoists.

Rule 1478. (1) A personnel hoist shall be used to raise or lower an employee in a tunnel shaft or caisson. A crane may be used to raise or lower an employee, if the crane and the work platform are as prescribed in construction safety standard Part 10. Lifting and Digging Equipment, which is referenced in R 408.41410. The hoist shall be in compliance with the provisions of 1967 PA 227, MCL 408.801 to 408.824, Bureau of Construction Codes, Elevator Safety Board, R 408.8511 to R 408.8524 which is referenced in R 408.41410.

(2) All sides of personnel cages shall be enclosed by 1/2-inch (12.70 mm) wire mesh, which shall not be less than no. 14 gauge or its equivalent, to a height of not less than 6 feet (1.83 m). When the cage or skip is being used as a work platform, its sides may be reduced in height to 42 inches (1.07 m) when the conveyance is not in motion. All personnel cages shall be provided with a positive-locking door that only opens inward.

(3) Flammable or combustible liquids or gases shall not be permitted on the work platform if the platform is occupied by an employee or employees.

(4) Hoist drum systems shall be equipped with at least 2 means of stopping the load, each of which shall be capable of stopping and holding 150 % of the hoist's rated line pull. A broken-rope safety, safety catch, or arrestment device is not a permissible means of stopping.

(5) The operator shall remain within sight and sound of the signals at the operator's station.

(6) All personnel cages shall be provided with a protective canopy. The canopy shall be made of steel plate, at least 8/16-inch (4.763 mm) in thickness, or material of equivalent strength and impact resistance. The canopy shall be sloped to the outside, and so designed that a section may be readily pushed upward to afford emergency egress. The canopy shall cover the top in such a manner as to protect those inside from objects falling in the shaft.

(7) Personnel platforms operating on guide rails or guide ropes shall be equipped with broken-rope safety devices, safety catches or arrestment devices that will stop and hold 150 % of the weight of the personnel platform and its maximum rated load.

(8) During sinking operations in shafts where guides and safeties are not yet used, the travel speed of the personnel platform shall not exceed 200 feet (60.96 m) per minute. Governor controls set for 200 feet (60.96 m) per minute shall be installed in the control system and shall be used during personnel hoisting.

(9) The personnel platform may travel over the controlled length of the hoistway at rated speeds up to 600 feet (182.88 m) per minute during sinking operations in shafts where guides and safeties are used.

(10) The personnel platform may travel at rated speeds greater than 600 feet (182.88m) per minute in completed shafts.

R 408.41482 Caisson excavation; employee protection.

Rule 1482. (1) An employee who enters a caisson shall be protected by a steel or concrete casing designed by a qualified employee and approved by a registered engineer.

(2) A copy of the design specifications of the casing shall be maintained at the jobsite.

(3) In the case of belled-bottom caissons, the steel or concrete casing shall be provided for the full depth of that part of each caisson hole that is above the bell.

(4) An employee shall not be permitted to work below the casing in running or unstable soil.

(5) The steel or concrete caisson shall extend not less than 12 inches above the ground line.

(6) Each employee who is required to enter a caisson excavation shall have a lanyard attached to a body harness and to the load line of a crane. The attachment to the load line shall utilize a screwpin shackle.

(7) An employee whose lanyard is attached to the load line of a crane shall be permitted to be lowered to the bottom of the caisson in the muck bucket.

(8) The maximum rate of travel when lowering an employee shall be 100 feet per minute. Free-spooling when lowering employees into a caisson is prohibited.

(9) All employees shall be removed from the caisson when material is being hoisted from the caisson.

(10) A secondary mechanical means that is capable of removing an employee from the caisson shall be readily available in case the crane performing the caisson work breaks down.

(11) A top person shall be stationed at the caisson and shall constantly monitor any employees who are in the caisson.

(12) A positive means of communication shall be maintained between employees working in the caisson and the top person.

(13) The air quality of a caisson shall be tested and maintained in accordance with occupational health standard Part 665 underground construction, caissons, cofferdams, and compressed air, which is referenced in R 408.41410.

(14) Where space permits, a caisson shall have a stairway for its entire height and shall have landing platforms not more than 20 feet apart. Where this is impracticable, a ladder shall be installed and landing platforms shall be located not more than 20 feet apart to break the climb.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

PUBLIC SERVICE COMMISSION

BASIC LOCAL EXCHANGE SERVICE CUSTOMER MIGRATION

Filed with the Secretary of State on April 17, 2013

These rules become effective June 17, 2013.

(By authority conferred on the public service commission by sections 202 and 213 of 1991 PA 179, MCL 484.2202 and 484.2213)

R 484.81, R 484.82, R 484.83, R 484.84, R 484.85, R 484.86, R 484.87, R 484.88, R 484.89, and R 484.90 of the Michigan Administrative Code are amended as follows:

PART 1. GENERAL PROVISIONS

R 484.81 Applicability.

Rule 1. These rules apply to the timely and complete transfer of an end user from 1 provider of basic local exchange service to another provider.

R 484.82 Exclusions.

Rule 2. Nothing in these rules prohibits providers from adopting more stringent standards in an interconnection agreement or other stand alone agreement.

R 484.83 Definitions.

Rule 3. (1) As used in these rules:

- (a) "Act" means 1991 PA 179, MCL 484.2101 to MCL 484.2602.
- (b) "Basic local exchange service" or "local exchange service" or "service" means the provision of an access line and usage within a local calling area for the transmission of high-quality 2-way interactive switched voice or data communication.
- (c) "Business day" means a day on which a provider's office is scheduled to be open for business.
- (d) "Business hours" means the times that a provider's office is scheduled to be open for business. As scheduled business days and hours may vary, the schedule to be followed by each provider is the one posted on its website.
- (e) "Commission" means the Michigan public service commission.
- (f) "Customer service record" or "customer service information" means account information including, but not limited to, the customer's address, features, services, equipment, directory listings, and network information, as appropriate.
- (g) "Directory service provider" means the entity that receives or implements the local service provider's directory service requirements for the end user, including white page listings, and may also include providing end user directory assistance.
- (h) "End user" means the retail subscriber of a telecommunication service.

- (i) “End user’s authorization” means the data or record indicating that the end user has authorized a new local service provider to change the end user’s service provider or view the end user’s customer service record.
- (j) “Federal act” means the telecommunications act of 1996, 101 Stat 101 (1996).
- (k) “Interconnection agreement” means an agreement between 2 or more providers entered into under sections 251 and 252 of the federal act.
- (l) “Line level” means features or activities associated with a specific line.
- (m) “Local service provider” means the provider that administers and bills local exchange and related services for the end user, and includes both of the following:
 - (i) “New local service provider” means the planned or actual provider of record following the completion of the migration process.
 - (ii) “Old local service provider” means the provider of record prior to the migration process or the current local service provider prior to service migration.
- (n) “Local service request” means an industry standard document used among providers to request installation, changes, or disconnections of local services.
- (o) “Loop” or “Unbundled loop” means the transmission facility between the network interface on a subscriber’s premises and the main distribution frame in the servicing central office.
- (p) “Loss notification” means provider notification initiated by the underlying network service provider at the completion of a service migration to notify the old local service provider of the loss of end user facilities.
- (q) “Number portability” means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from 1 telecommunications provider to another.
- (r) “Plain old telephone service” means the provision of a standard telephone line and telephone number, as subscribed to by a residential or small business end user.
- (s) “Primary interexchange carrier” or “primary interexchange carriers” means the provider or providers designated by a wire line end user to carry intraLATA and/or interLATA long distance traffic.
- (t) “Provider” means a person, firm, partnership, corporation, or other entity that provides basic local exchange service as defined by section 102(b) of the act.
- (u) “Service configuration” means identification of the type of serving arrangement used by the local service provider to provide service to the end user, including resale, facility based service, and other arrangements.
- (v) “Service provider” means each provider involved in supplying service to an end user, including local service providers and/or underlying network service providers.
- (w) “Underlying network service provider” means a provider that provides some or all of the facilities and equipment components used to make up an end user’s local telecommunications service, including both of the following:
 - (i) “New underlying network service provider” means a provider that provides some or all of the facilities and equipment components used to make up an end user’s local telecommunications service following the completion of the migration process or the potential network service provider prior to service migration.
 - (ii) “Old underlying network service provider” means a provider that provides some or all of the facilities and equipment components used to make up an end user’s local telecommunications service prior to the migration process or the current network service provider prior to service migration.
- (2) A term defined in the act has the same meaning when used in these rules.

R 484.84 Expiration.

Rule 4. These rules shall expire 3 years from the effective date of the rules. The commission may promulgate new rules at any time.

PART 2. TRANSFER OF END USER BY PROVIDERS

R 484.85 Migration responsibilities of local service providers.

Rule 5. (1) Each service provider shall maintain a publicly accessible website with all of the following information:

(a) All applicable processes and procedures for end user migration.
(b) Company contact escalation list, which shall include a company contact for operational issues and a contact for escalation of those issues.

(2) The old local service provider shall release any assigned telephone numbers associated with the end user's service that are properly requested in accordance with industry standards and federal law.

(3) Except for migrations described in 47 CFR 64.1120(e), the new local service provider shall communicate directly with the end user, receive the end user's authorization to switch service providers, and provide all pertinent information to the end user associated with the end user migration.

(4) The new local service provider shall be responsible for the coordination required to migrate the end user. The underlying network service providers shall promptly provide necessary support and assistance to migrate the end user. Neither the old local service provider nor underlying network service provider shall interfere in the transfer or otherwise use this opportunity to win back the customer.

(5) Before requesting a customer service record, the new local service provider or authorized agent shall have obtained an end user's authorization.

(6) All providers shall follow industry standard procedures and federal law for porting an end user's telephone number and processing to actual completion the migration of the end user upon receipt of an accurate request from the new local service provider. For requests received outside of business hours, the date and time of receipt shall be considered to be the beginning of the next business day.

(7) When local exchange service to be migrated is currently provided using resale or local wholesale arrangements, the old underlying network service provider shall provide a loss notification to the old local service provider upon completion of a request.

(8) Upon completion of the service order, the old underlying network service provider shall unlock the end user's E911 records that are being migrated, within industry standard or federally mandated timeframes, whichever is earlier. The new underlying network service provider shall assure the new E911 database record is accurately entered into the E911 database and that the database is locked.

(9) Directory listing information shall be submitted by the new local service provider to the directory service provider using a local service request or other mutually agreeable format. If the old local service provider is a facilities based provider and directory listing migration capabilities are not available from the directory service provider, then the old local service provider shall remove its listings upon completion of a local service request to migrate local service. The new local service provider shall ensure that the directory listing information is accurate.

(10) The new local service provider may reuse an unbundled loop upon request if reuse is technically feasible. Any of the following exclusions shall apply:

(a) The new local service provider has made all reasonable efforts to obtain the circuit identification for reuse, and the circuit identification information was not provided by the old local service provider.

(b) Upgrade or downgrade of existing facilities is required.

(11) The old local service provider shall release the circuit identification and facilities for reuse when the existing circuit or facilities are no longer needed by the old local service provider to provide service to the migrating end user or any other end user that is currently using those facilities.

(12) The old local service provider shall not retain a requested facility for possible future use.

(13) An unbundled loop shall be considered released for reuse when the old local service provider provides the circuit identification for release.

(14) Subject to subrule (10) of this rule, when requested, and reuse of the unbundled loop facility is available, the old local service provider shall provide the circuit identification number with the associated telephone number for the requested unbundled loop facility to the new local service provider as part of the customer service record or firm order confirmation response. To order the reuse of an unbundled loop facility, the new local service provider shall furnish the circuit identification number on the local service request issued to the new underlying network service provider.

(15) If the new local service provider requests reuse of the unbundled loop facility, and it is not available, then the old local service provider shall use best efforts to indicate as part of the customer service record or firm order confirmation response the reason why the unbundled loop is not reusable.

(16) The local service providers and underlying network service providers involved in the transfer shall maintain accurate unbundled loop circuit identification information and customer service record content, as applicable, to the end user service to facilitate migration activity as described within these rules.

(17) The underlying network service provider shall notify the local service providers involved in the transfer of changes affecting information contained in this rule within 5 business days of completion of the transfer.

R 484.86 Exchanging customer service information.

Rule 6. (1) Unless otherwise agreed to by the providers involved, all of the following shall be the responsibility of the local service providers in any migration of an end user's local service.

(a) The new local service provider may request and receive the customer service record information, which may include a request for circuit identification with associated telephone number from the old local service provider as part of the customer service record or firm order confirmation.

(b) To the extent resale and local wholesale arrangement information is available via current pre-order functionality in the underlying network service provider's operational support systems and is made available under current local business practice, it shall be made available to all new local service providers upon request and acknowledgement of end user permission. Underlying network service provider customer service record information might not reflect all end user services subscribed and received from the old local service provider.

(c) Customer service record requests shall only be submitted after proper authorization from the end user to review the end user's account and only with the intent to obtain information to facilitate the migration of local service.

(d) A customer service request or local service request shall not be used by a local service provider to trigger retention activity. The new local service provider shall not be required to share a copy of the end user's authorization with the old local service provider, prior to receipt of the records, but shall retain records for a reasonable period

of time to resolve issues about proper use of operational support systems or to assist in the resolution of a claim of unauthorized transfer, should one arise.

(e) All responses to customer service record requests shall be provided promptly, without unreasonable delay, and consistent with federal law.

(f) The deadline for submitting service requests shall be posted on a provider's website.

(g) Upon receiving a local service request, the receiving provider shall issue either a confirmation or rejection of an electronic request within the time required by federal law.

(h) A provider may require a customer service record request to include some or all of the following:

(i) Billed assigned telephone number.

(ii) Acknowledgement of end user consent to review the customer service record or customer service information.

(iii) End user name.

(iv) Contact information detailing to whom, how, and where to respond with the customer service record or customer service information.

(v) A telephone number and person to contact for questions about the customer service record or customer service information request.

(vi) The name of the company requesting the customer service record or customer service information.

(vii) The date and time the request was sent.

(viii) Indication whether circuit identification with associated telephone number is requested for loop reuse.

(ix) Indication whether directory information is requested.

(i) The old local service provider shall provide to the new local service provider all of the following information:

(i) Account level information including the following:

(A) Billing telephone number.

(B) Complete customer billing name and address.

(C) Directory listing information, including address and listing type, to the extent that it is maintained by the old local service provider.

(D) Complete service address including floor, suite, unit, or similar designation.

(E) Type of service.

(ii) Line level information shall include all services and features associated with the service provider, including the following:

(A) Assigned telephone number, which identifies all telephone numbers that are billed on the account.

(B) Current primary interexchange carrier selections including freeze status.

(C) Local freeze status, if offered.

(D) All vertical features such as custom calling features identified in a manner so that the new local service provider can understand to which products and services the end user currently subscribes.

(E) Other service options, such as lifeline, 900 blocking, toll blocking, remote call forwarding, and off premises extensions, if applicable.

(F) Service configuration information.

(G) Identification of the local service or underlying network service provider when different from the provider providing the response.

(H) Identification of any data services on the migrating end user's line or any other services such as alarm services that utilize the unbundled loop.

(I) Circuit identification with associated telephone number, provided with the customer service record, when requested and the unbundled loop is not being used for other services.

(J) Indication as to whether any circuit identifications are not reusable and therefore not provided.

(K) Type of service.

(j) If requested, the old local service provider shall provide the network information, including loop circuit identification (when the unbundled loop is available for reuse) and associated telephone number, with the customer service record or firm order confirmation. When service components such as loop and directory services are currently being provided to the end user by an entity other than the local service provider or the underlying network service provider the customer service record shall also include identification of those components and the associated service provider.

(k) The transmission of customer service records and customer service information requests and information shall be through electronic facsimile, electronic mail, electronic data interchange, graphical user interface, or any other means negotiated between the 2 providers. The transmission of customer service records and customer service information requests shall not be by voice telephone call. All providers shall, at a minimum, allow transmission of customer service record requests by facsimile.

R 484.87 Order process requirements

Rule 7. All migration and ordering processes between providers shall follow the applicable industry standards and comply with federal law.

Rule 484.88 Service quality standards.

Rule 8. (1) Upon receipt of an accurate request from the new local service provider, the old local service provider shall port the telephone number and, if requested, transfer the unbundled loop to the new local service provider within the specified time period listed in subdivisions (a) and (b) of this subrule, unless a later due date is requested. If the old local service provider reschedules the original due date without the consent of the new local service provider, or the old local service provider fails to complete the migration by the original due date, the original due date shall be the one measured against. The following apply to due dates:

(a) Due dates for migrations involving number portability with or without a loop. For a migration request involving 1 to 18 lines, the due date is a monthly average of 5 business days after a request is made. Any migration request involving 19 or more lines involving number portability with or without a loop is a project for which a due date shall be negotiated.

(b) Due dates for migrations involving a simple port request only, for example, not for orders that require other facilities, such as loops. For a migration involving a simple port, the due date is the date required by 47 CFR 52.35. For migration involving simple ports for 2 to 30 lines, the old local service provider shall send a firm order confirmation within 24 hours and complete the porting of the telephone number to the new local service provider within 3 business days of the firm order confirmation. Any migration request that involves simple ports for 31 or more lines is a project for which a due date shall be negotiated.

(2) The provider shall keep records on provisioning due dates not met. This measurement shall be reported by the provider at an order level for resale plain old telephone service, and at a feature or circuit level for resale specials and local wholesale arrangements. The records shall be available for review upon the request of commission staff.

(3) Data used to measure performance concerning due dates shall not include misses caused by either of the following:

(a) Action or inaction of the new local service provider or the end user.

- (b) The number portability administration center.

PART 3. REMEDIES, WAIVER, AND GENERAL EXEMPTIONS

R 484.89 Remedies.

Rule 9. (1) If, after 3 consecutive months, a provider fails to meet 1 or more of the standards as set forth by these rules for each of the 3 months, then the provider shall notify commission staff within 10 days of such failure and the commission shall require the provider to take corrective action. This corrective action shall include, but is not limited to, the 2-part report described as follows:

- (a) Part 1 of the report shall be a “root-cause” analysis of the reported level of performance, explaining why the reported performance failed to meet applicable service quality standard(s).

- (b) Part 2 of the report shall be a “corrective action plan.” The plan shall be based on the causes for substandard performance identified in part 1, and it shall define actions proposed to bring performance up to a level at or above the applicable standard. This plan shall also have a 90-day timeline within which the provider commits to bring its performance up to a level at or above the applicable standard.

(2) A provider shall deliver its 2-part report to the commission staff within 30 days after it files the report showing a failure to meet the prescribed standards. Unless otherwise requested by the commission staff, the provider shall also provide a status report for each month thereafter until the provider meets the applicable service quality standard.

(3) This rule does not prohibit a provider from seeking commission action against another provider, nor does it prohibit the commission from investigating a provider’s compliance under its own motion under the Michigan telecommunications act, 1991 PA 179, MCL 484.2101 to MCL 484.2602.

(4) Violation of these rules may result in penalties issued under section 601 of the act, MCL 484.2601.

Rule 484.90 Waiver and general exemptions.

Rule 10. (1) A provider may petition for a permanent or temporary waiver or exception from these rules when qualifying circumstances beyond the control of the provider render compliance impossible or when compliance would be unduly economically burdensome or technologically infeasible.

(2) Qualifying circumstances include any of the following:

- (a) The problem is or was attributable to an “act of God.” The term “act of God” shall include events such as any of the following:

- (i) Flood.

- (ii) Lightning.

- (iii) Tornado.

- (iv) Earthquake.

- (v) Fire.

- (vi) Blizzard.

- (vii) Ice storm.

- (viii) Widespread electrical power outage.

- (ix) Other unusual natural or man-made disasters.

- (b) There is a work stoppage or other work action, beyond the control of the provider, that causes or caused a significant reduction in hours worked.

- (c) The problem occurs or occurred during a major failure. A major failure is a single event or occurrence that is not the direct result of action taken by the provider and that generates out-of-service reports affecting 100 or more access lines.

- (d) The problem is or was caused by either the end user or by malicious damage to facilities by a third party outside the control of the provider.

(3) A provider may request a temporary waiver in order to have sufficient time to implement procedures and systems to comply with these rules.

(4) The provider shall notify the commission, in writing, within 20 business days of such an event that it intends to invoke the occurrence of an event described in subrule (2) of this rule. The notification to the commission shall include all of the following information:

- (a) Specific description of the event and general impact.
- (b) Date or dates of the event.
- (c) Location affected, such as exchanges or wire centers.
- (d) Estimated number of customers affected.

(5) The commission staff shall have 10 business days following the notification to advise the provider, in writing, of a dispute concerning the validity of the company's invocation of an event described in subrule (2) of this rule and the reasons for such dispute. If the dispute cannot be resolved within 10 business days of the commission staff's advice, then the provider shall file an application with the commission within 10 business days thereafter for resolution of the dispute.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS

Filed with the Secretary of State on April 22, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16 and 21 of 1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.14451 and R 408.14476 of the Michigan Administrative Code are amended as follows:

PART 44. FOUNDRIES

R 408.14451 Melting furnace pits.

Rule 4451. A melting furnace pit shall comply with all of the following provisions:

- (a) Be free of water during operation.
- (b) Be clear of employees during tapping or pouring.

R 408.14476 Cleaning castings in enclosures.

Rule 4476. (1) Sand or abrasive cleaning shall be done in an enclosed machine or room which shall be dust tight or have exhaust systems.

(2) When a core is blown out of a casting, it shall be done in an enclosure equipped with an exhaust system.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

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R 408.15712, R 408.15713, R 408.15717, R 408.15721, R 408.15723, R 408.15725, R 408.15726, and R 408.15739 of the Michigan Administrative Code are amended as follows:

PART 57. OIL AND GAS DRILLING AND SERVICING OPERATIONS

R 408.15712 Personal protective equipment and methods.

Rule 5712. (1) The requirements for the providing and use of personal protective equipment are found in general industry safety standard, Part 33. Personal Protective Equipment, being R 408.13301 et seq. of the Michigan Administrative Code.

(2) An employee shall not wear loose or poorly fitted clothing.

(3) An employee shall not work in clothing that is saturated with any flammable, hazardous, or irritating substance. This clothing shall be immediately removed and replaced with suitable clothing after the affected skin area has been thoroughly washed and treated, if necessary.

(4) While on the worksite, an employee shall not wear jewelry or other adornments which are prone to snagging or hanging and causing injury.

(5) An employee whose length of hair poses a hazard on the worksite shall keep his or her hair contained in a suitable manner while working. Hair and beard styles shall not interfere with the wearing of respiratory protective equipment.

(6) If chemicals harmful to the eyes are being used, appropriate personal protective equipment and eye wash stations shall be provided to the employee, at no expense to the employee, and shall be used.

R 408.15713 Safety belt, lifeline, and lanyard use.

Rule 5713. (1) An employee, when engaged in work 10 feet or more above the rig floor or other working surfaces, shall wear a safety belt or harness with an attached lanyard, except during rig up and rig down.

(2) A safety belt, safety harness and any lifeline and lanyard shall be used only for safeguarding the employee.

(3) A safety belt, safety harness, lifeline, or lanyard subjected to in-service shock loading, rather than static loading, shall be removed from service and shall not be used again for employee protection.

(4) When working in the mast or derrick, an employee shall be provided with safety belt or safety harness and a lanyard or lifeline which is adjusted to allow the minimum of drop in case of a fall.

R 408.15717 Wells containing hydrogen sulfide.

Rule 5717. (1) Drilling and servicing of wells shall be as prescribed in the American Petroleum institute document, RP49, reissued 1975, Recommended Practices for Safe Drilling of Wells Containing Hydrogen Sulfide. This document is incorporated herein by reference. The API document may be inspected at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143. This information may be purchased at a cost of \$125.00 from IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at website: <http://global.ihs.com>.

(2) Where hydrogen sulfide or any other unusually hazardous gas is known or suspected to exist, the employer shall advise the employees of the possible exposure involved and shall provide training and personal protective equipment as required in Rule 5711 of this part.

(3) Where it is not necessary to maintain a cellar on wells producing hydrogen sulfide, the cellar shall be filled to eliminate the hazard of accumulation of hydrogen sulfide gas.

R 408.15721 Construction of derricks and masts.

Rule 5721. (1) A derrick or mast manufactured after November 21, 1979, shall have a permanent nameplate which is attached to the structure and which indicates all of the following information:

(a) Name of manufacturer.

(b) Model number and serial number.

(c) Rating, including maximum static hook load capacity with the number of lines.

(d) Whether guying is applicable and the recommended guying pattern. If guying requirements do not appear on the nameplates, the derrick or mast shall be guyed as prescribed by API SPEC 4E-1974, entitled "Specification for Drilling and Well Servicing Structures," which is herein adopted by reference and may be inspected at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143. The specifications may be purchased at a cost of \$125.00 from IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at website: <http://global.ihs.com>.

(2) An employee qualified in procedures for raising and lowering the mast shall be in charge of raising and lowering operations and shall do both of the following:

(a) Visually inspect the raising or lowering mechanism.

(b) Assure that all tools and materials which are not secured are removed from the mast.

(3) Only an employee required to carry out the operation shall be allowed in or under the mast unless it is in the fully raised or lowered position.

(4) The mast shall be level and properly positioned before raising, lowering, scoping the structure, or tightening guylines.

(5) Before imposing any load on a derrick or mast, all required load guys shall be properly tightened.

(6) Mast crown sheaves shall be guarded to prevent the hoisting line from being displaced from the grooves during all operations.

(7) A derrick board or other platform shall be constructed, maintained, and adequately secured to the structure to withstand the weight of employees and other stresses placed upon the platform.

(8) An unguarded opening large enough to permit a person to fall through shall not exist between the beams or main supports of the crown block.

(9) If bumperblocks are used under the crown block beam, a safety cable or strap shall be fastened along their full length with both ends secured to the derrick.

(10) All counterweights above the rig floor, when not fully encased or running in permanent guides, shall have a safety chain or wire rope safety line anchored to the derrick or mast to secure them. The chain and wire rope shall be capable of sustaining the drop load and shall limit the drop counterweight to not less than 7 feet from the floor.

(11) Load-bearing hydraulic jacks shall have a safety lock device, double valves, or the equivalent..

(12) A derrick, mast, and auxiliary parts shall be maintained in a safe condition.

R 408.15723 Traveling blocks and crown blocks.

Rule 5723. (1) A traveling block and its component parts shall be designed, constructed, and maintained as prescribed in API SPEC 8A-1976, entitled "Specifications for Drilling and Production Hoisting Equipment," which is adopted herein by reference and may be inspected at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143. The specifications may be purchased at a cost of \$125.00 from IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at website: <http://global.ihs.com>.

(2) A traveling block, crown block, or related equipment shall not be subjected to any load in excess of its designed rating.

(3) A hook for use with a traveling block to which equipment is either directly or indirectly attached shall be equipped with safety latch to prevent accidental release of the load.

(4) A traveling block exposed to contact shall be guarded at the running nip point of the sheave and shall not be operated unless the guard is in place.

R 408.15725 Electrical installations.

Rule 5725. (1) Except as required in this rule, electrical installations and equipment shall be as prescribed in the national electrical code, NFPA 70-1981, which is adopted herein by reference and may be inspected at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143. This code may be purchased at the cost of \$27.00 from the National Fire Protection Association, Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, or via the internet at web-site: www.nfpa.org. Electrical equipment such as lighting, power tools, and other electrical motors used in hazardous locations shall be designed for such locations and where practicable, listed by a nationally recognized testing laboratory. All wiring components and electrical equipment shall be maintained in accordance with the original design. Because of exposure to vibration and frequent rig moves, maximum use shall be made of flexible electrical cord intended for hard usage and with inherent resistance to dampness and petroleum products.

(3) On a land location, an engine-driven light plant or generator shall not be located closer to the wellbore than the nearest engine operating the rig.

(4) A light plant generator shall have a overload safety device to provide protection from arcing in a hazardous area or from a burnout of the generator.

(5) Rig lighting equipment, except that used in a cellar, shall be classified as class 1, division 2.

(6) Cellar lighting equipment shall be classified class 1, division 1.

(7) The following area classifications shall determine the type of maintenance requirements for electrical equipment on the rig under normal operating conditions. When special service operations are being performed, the requirements for electrical installations under the conditions of service listed in subdivisions (a) to (h) of this subrule shall be followed:

(a) When the derrick or mast is not enclosed or is equipped with a windbreak (open top and V-door) and the substructure is open to ventilation, the areas shall be classified as shown in figure 1 and shall provide not less than 12 complete air changes per hour.

- (b) If the rig floor and substructure are enclosed and as such, provide not less than 12 complete air changes per hour, the areas shall be classified as shown in figure 2.
- (c) Where appropriate, the area surrounding a drilling fluid tank located outdoors shall be provided with ventilation of not less than 12 complete air changes per hour and shall be classified as shown in figure 3.
- (d) If the drilling fluid tank is enclosed or located so as to provide not less than 12 complete air changes per hour, the areas shall be classified as shown in figure 4.
- (e) The areas surrounding a shale shaker with ventilation of not less than 12 complete air changes per hour shall be classified as shown in figure 5.
- (f) When the shale shaker is enclosed, the area within the enclosure shall be classified as class 1, division 1.
- (g) If an open fluid ditch or trench is used to connect between drilling fluid tanks, or between the drilling fluid tank and shale shaker, or open drilling fluid pits, and if ventilation of not less than 12 complete air changes per hour is provided the areas shall be classified as shown in figure 3 for tanks.
- (h) The area surrounding the drilling fluid pump shall not be considered hazardous unless it is so classified due to the proximity of another hazardous component or facility.
- (8) Motors and other electrical equipment shall be classified as prescribed in figures 1 to 5 of this rule.
- (9) Direct current (DC) rotary, draw works, cathead, and pump motors in a classified area shall have an enclosed cooling system or shall be purged with air from a safe source. Air units supplying purged air shall be located at the input end of the system to provide positive pressure on the ducting and motors.
- (10) All electrical extension cords shall be properly insulated with both male and female plugs, and the cord shall be in good condition.
- (11) Lamps and reflectors shall be kept clean to provide illumination.
- (12) Figures 1 to 5 read as follows:

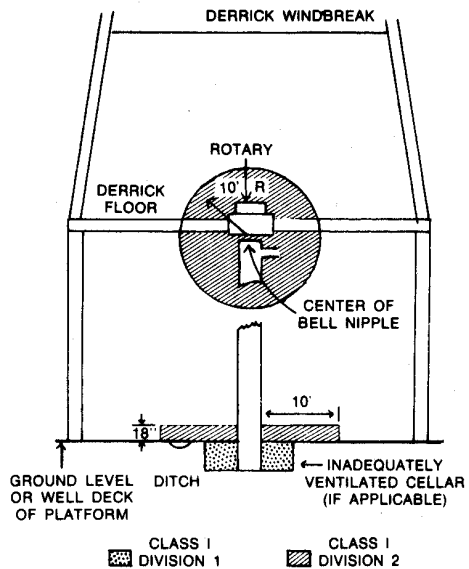


FIGURE 1
DERRICK AND SUBSTRUCTURE
WITH ADEQUATE VENTILATION
(OPEN TOP AND V-DOOR AREA)

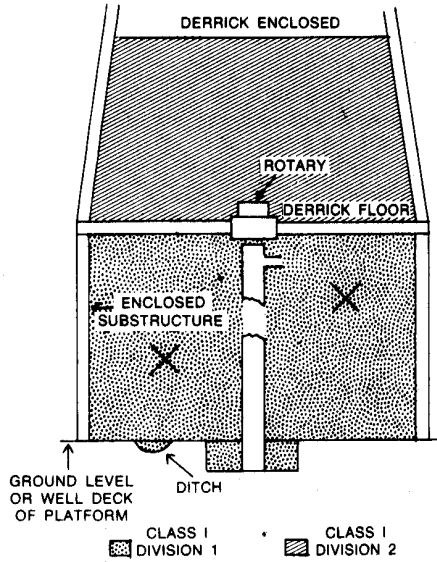


FIGURE 2
ENCLOSED DERRICK (OPEN TOP)
INADEQUATELY VENTILATED
SUBSTRUCTURE

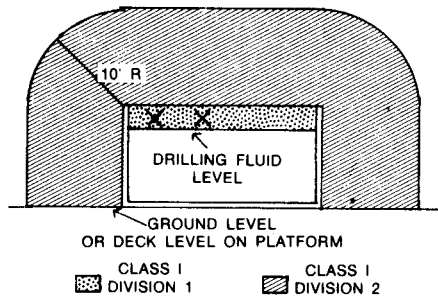


FIGURE 3
DRILLING FLUID TANK OR OPEN SUMP
WITH ADEQUATE VENTILATION

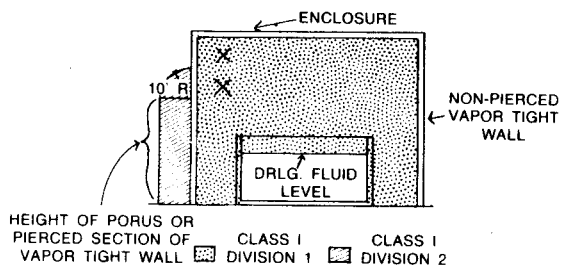


FIGURE 4
DRILLING FLUID TANK OR OPEN SUMP
IN AN ENCLOSURE

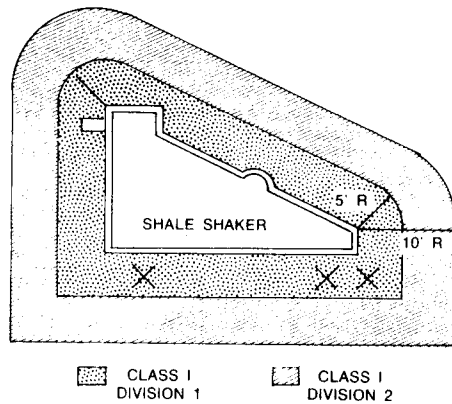


FIGURE 5
VIBRATING SHALE SHAKER WITH ADEQUATELY
VENTILATED AREA

R 408.15726 Blowout prevention equipment.

Rule 5726. (1) Before drilling out under surface casing, blowout preventing equipment shall be installed and maintained throughout the drilling operation.

(2) The blowout prevention equipment shall be as prescribed in the API RP53-1976 document entitled "Recommended Practices for Blowout Prevention Equipment Systems," which is adopted herein by reference and may be inspected at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143. This information may be purchased at the cost of \$125.00 from IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at website: <http://global.ihs.com>.

(3) Where a ram-type preventer is used, it shall contain pipe rams to enable closure on the pipe being used.

(4) The choke line and kill line shall be anchored, tied, or otherwise secured to prevent whipping under pressure surges.

(5) While in service, blowout prevention equipment shall be inspected daily and a preventer mechanical test shall be performed daily to ensure that the preventers will function properly.

(6) A pipe fitting, valve, or union placed on or connected with blowout prevention equipment, well casing, casinghead, drill pipe, or tubing shall have a working pressure rating suitable for the maximum anticipated well surface pressure.

(7) Pressure testing of each component of the blowout preventer equipment shall be conducted before drilling out any string of casing, except conductor pipe. Drilling shall not proceed until blowout prevention equipment is found, upon testing, to be serviceable.

(8) If a blind ram is closed for any purpose, the valve on the choke line or relief line below the blind ram shall be opened before opening the ram to bleed off any pressure.

(9) At least 1 person who is capable of operating blowout prevention equipment shall be on the well site during well drilling operations.

R 408.15739 Pressure equipment.

Rule 5739. (1) A relief valve discharge shall be located and anchored so as to prevent a hazardous condition due to sudden discharge or piping movement.

(2) In normal operation, pumps, piping, hoses, valves, and other fittings shall not be operated at pressures greater than their rated working pressure and shall be maintained in good operating condition.

Test pressures shall not exceed the design test pressure. Pumps, piping, hoses, and safety relief valves shall be of the design that meets the requirements of the operating conditions to be encountered.

(3) Repairs to electrically driven pressure equipment shall not be performed unless the energy source has been interrupted at the switch box and the control has been locked.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS

Filed with the Secretary of State on April 22, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a (6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16 and 21 of 1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.17303, R 408.17310, R 408.17315, R 408.17318, and R 408.17320 of the Michigan Administrative Code are amended as follows:

PART 73. FIRE BRIGADES

R 408.17303 Definitions; A to E.

Rule 7303. (1) “Approved” means approval by the director of the department of licensing and regulatory affairs or his or her duly designated representative.

(2) “Approved label” means a label or other identifying mark of a nationally recognized testing laboratory, such as underwriters laboratory, inc. or factory mutual research corp., that maintains a periodic inspection of production of labeled equipment or materials and by whose labeling indicates compliance with nationally recognized standards or tests to determine suitable usage in a specified manner.

(3) “Education” means the process of imparting knowledge or skill through systematic instruction. “Education” does not require formal classroom instruction.

(4) “Enclosed structure” means a structure that has a roof or ceiling and not less than 2 walls that may present fire hazards to employees, such as accumulations of smoke, toxic gases, and heat similar to those found in buildings.

R 408.17310 Employer responsibilities.

Rule 7310. (1) The employer having a fire brigade shall prepare and maintain a statement or written policy which establishes the existence of a fire brigade; and the basic organizational structure; the type, amount, and frequency of training to be provided to fire brigade members; the expected number of members in the fire brigade; and the functions that the fire brigade is to perform at the workplace. The organizational statement shall be available for inspection by the director of the department of licensing and regulatory affairs and by employees or their designated representatives.

(2) The employer shall assure that employees who are expected to do structural fire fighting are physically capable of performing duties which may be assigned to them during emergencies. The employer shall not permit employees with known heart disease, epilepsy, or emphysema to participate in

fire brigade emergency activities unless a physician's certificate of the employees' fitness to participate in such activities is provided. For employees assigned to fire brigades before the effective date of this part, this rule is effective on September 15, 1985. For employees assigned to fire brigades after the effective date of this part, this rule applies.

(3) The employer shall provide training and education for all fire brigade members commensurate with those duties and functions that fire brigade members are expected to perform. Such training and education shall be provided to fire brigade members before they perform fire brigade emergency activities. Fire brigade leaders and training instructors shall be provided with training and education which is more comprehensive than that provided to the general membership of the fire brigade.

(4) The quality of training and education programs for fire brigade members shall be similar to the training and programs conducted by such fire training schools as any of the following:

- (a) Maryland fire and rescue institute.
- (b) Iowa fire service extension.
- (c) West Virginia fire service extension.
- (d) Georgia fire academy.
- (e) New York state department, fire prevention and control.
- (f) Louisiana state university firemen training program.
- (g) Michigan's Macomb community college, fire and emergency services training center.
- (h) Washington state's fire service training commission for vocational education.

(5) The training and education program for oil refinery industry fire brigade members shall be similar in quality to the training and education program conducted by any of the following:

- (a) Macomb community college of Michigan, fire and emergency services training center.
- (b) Texas A & M university.
- (c) Lamar university.
- (d) Reno fire school.
- (e) Delaware state fire school.

(6) Training for incipient fires shall be similar to the training provided by the fire training schools listed in subrule (4) of this rule or to the fire training for incipient fires offered by the school of labor and industrial relations at Michigan state university.

(7) An employer shall assure that training and education is conducted frequently enough to ensure that each member of the fire brigade is able to perform the member's assigned duties and functions satisfactorily and in a safe manner so as not to endanger fire brigade members or other employees. All fire brigade members shall be provided with training at least annually. In addition, fire brigade members who are expected to perform interior structural fire fighting shall be provided with an education session or training at least quarterly.

(8) An employer shall inform fire brigade members about special hazards, such as the storage and use of flammable liquids and gases, toxic chemicals, radioactive sources, and water reactive substances, to which they may be exposed during a fire and other emergencies. The fire brigade members shall also be advised of any changes that occur in relation to the special hazards.

(9) An employer shall develop written procedures that describe the actions to be taken in situations involving special hazards and shall include these written procedures in the training and education program. An employer shall make the procedures available for inspection by fire brigade members.

R 408.17315 Foot and leg protection.

Rule 7315. (1) Foot and leg protection shall be provided and may be achieved by either of the following methods:

- (a) Fully extended boots which provide protection for the legs.

(b) Protective shoes or boots worn in combination with protective trousers that meet the requirements of R 408.17316.

(2) An employer shall ensure that protective footwear meets the requirements of NFPA 1971-97, protective ensemble for structural fire fighting. NFPA 1971-97 is adopted by reference in these rules and may be purchased from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, (1-800-344-3555), website: www.nfpa.org, at a cost as of the time of adoption of these rules of \$50.50.

R 408.17318 Head, eye, and face protection.

Rule 7318. (1) Head protection shall consist of a protective head device that has ear flaps and a chin strap which meet the performance, construction, and testing requirements of NFPA 1971-97, protective ensemble for structural fire fighting. NFPA 1971-97 is adopted by reference in R 408.17315 (2).

(2) Protective eye and face devices that comply with R 408.13301 et seq. shall be used by fire brigade members when performing operations where the hazards of flying or falling materials are present and might cause eye and face injuries. Protective eye and face devices provided as accessories to protective head devices (face shields) are permitted if the devices meet the requirements of R 408.13301 et seq. The provisions of R 408.13301 et seq. are available from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan 48909.

(3) Full facepieces, helmets, or hoods of breathing apparatus that meet the requirements of R 408.13301 et. seq. are acceptable as meeting the eye and face protection requirements of this part.

R 408.17320 Respiratory protection devices.

Rule 7320. (1) An approved self-contained breathing apparatus that has a full facepiece shall be provided to and worn by fire service personnel while working in atmospheres where toxic products of combustion or an oxygen deficiency may be present. The apparatus shall also be worn during emergency situations involving toxic substances. An employer shall ensure that respirators are provided to and used by fire brigade members and that the respirators meet the requirements of 29 C.F.R. 1910.134 and this rule.

(2) Self-contained breathing apparatus shall have a minimum service life rating of 30 minutes in accordance with the methods and requirements of the national institute for occupational safety and health (NIOSH) except for escape self-contained breathing apparatus (ESCBAs) used only for emergency purposes.

(3) All compressed air cylinders used with self-contained breathing apparatus shall meet department of transportation (DOT) requirements which are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 or the criteria of the national institute for occupational safety and health (NIOSH), Cincinnati Technical Center, 435 Elm Street, Suite 500, Cincinnati, Ohio 45202.

(4) Self-contained breathing apparatus shall be provided with an indicator that automatically sounds an audible alarm when the remaining service life of the apparatus is reduced to within a range of 20% to 25% of its rated service time.

(5) An employer shall ensure that self-contained breathing apparatus for use by fire service personnel is of the positive-pressure type. All breathing apparatus that is purchased after the effective date of these amendatory rules shall be in compliance with the national fire protection association standard NFPA 1981-87, open circuit self-contained breathing apparatus. NFPA 1981-87 is adopted by reference in these rules and is available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, (1-800-344-3555), website: www.nfpa.org, or from the Michigan Department of

Licensing and Regulatory Affairs, MIOSHA Standards Section, P.O. Box 30643, Lansing, Michigan 48909, at a cost as of the time of adoption of these amendatory rules of \$27.00.

(6) Subrule (5) of this rule does not prohibit the use of a self-contained breathing apparatus if the apparatus can be switched from a demand mode to a positive-pressure mode when fire service personnel are performing emergency operations. However, the apparatus shall be in the positive-pressure mode.

**PROPOSED ADMINISTRATIVE RULES,
NOTICES OF PUBLIC HEARINGS**

MCL 24.242(3) states in part:

“... the agency shall submit a copy of the notice of public hearing to the Office of Regulatory Reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the Office of Regulatory Reform.”

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.”

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF ~~LABOR AND ECONOMIC GROWTH~~ LICENSING AND REGULATORY
AFFAIRS**

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

Proposed Draft September 12, 2012

These rules take effect immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of **licensing and regulatory affairs** ~~labor and economic growth~~ by sections 19 and 21 of 1974 PA 154 and Executive Reorganization Order Nos. **1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030** ~~No. 1996-2 and 2003-1, MCL 408.1019, 408.1021, 445.2001, and 445.2011~~)

R 408.42221, R 408.42223, R 408.42224, R 408.42229, R 408.42241 and R 408.42243 of the Michigan Administrative Code are amended as follows:

PART 22. SIGNALS, SIGNS, TAGS, AND BARRICADES

R 408.42221 Duties of employer.

Rule 2221. ~~(4)~~ An employer shall provide, install, and maintain signals, signs, barricades, and tags, as prescribed by this part, where an employee might be, or would likely be, injured if not alerted to the hazard.

~~(2) An employer shall provide training appropriate to the work assignment for each employee engaged in activities covered by this part. The following are examples of the training that may be required:~~

~~(a) Recognition of hazards, such as, but not limited to, possible masonry wall collapse areas, crane swing areas, floor opening covers, or traffic control hazards.~~

~~(b) Traffic regulator training.~~

~~(c) Proper placement and removal of signs, signals, tags, and barricades.~~

~~(d) Training in how to perform work in proximity to traffic to minimize vulnerability.~~

R 408.42223 Traffic control.

Rule 2223. (1) Traffic control devices shall be installed and maintained as prescribed in Part 6 of the 2011 MMUTCD, which is adopted by reference in R 408.42209.

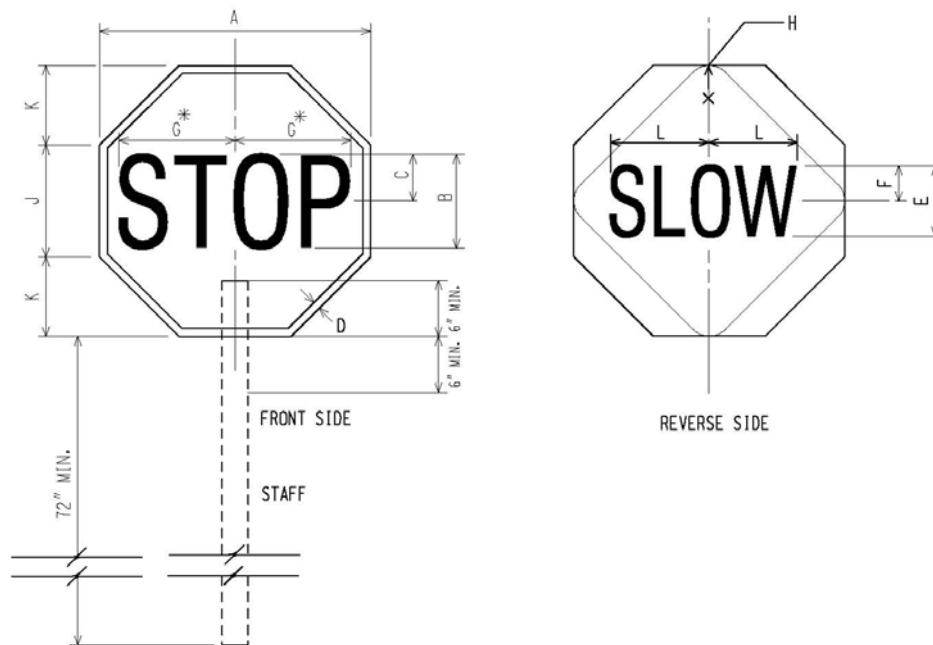
~~(2) An employer shall ensure that all operations have routine inspections of traffic control elements for acceptable levels of operation. When traffic exposures are such that signs, signals, or barricades do not provide the necessary protection on, or adjacent to, a highway or street, traffic regulators or other appropriate traffic controls shall be provided. Modification of traffic controls, such as additional signs or devices, or a change in work operations, shall be determined by a qualified person who is responsible for the project traffic control.~~

~~(2) (3)~~ Signaling directions by traffic regulators shall conform to the provisions of Part 6 of the 2011 MMUTCD, which is adopted by reference in R 408.42209.

(3) (4) A hand-held paddle sign shall have 2 faces and it shall be attached to a staff of suitable design that will allow the entire unit to be held and controlled by 1 traffic regulator. The bottom of the sign shall be a minimum of 6 feet above the roadway surface. The sign shall be fastened to the staff so that no part of the legend is obscured. The portion of the staff within the sign face shall match the sign colors. The sign shall not be less than 18 by 18 inches and the letters shall have a minimum height of 6 inches (150 millimeters). All letters and spacing between letters shall be as prescribed in Part 6 of the 2011 MMUTCD, which is adopted by reference in R 408.42209. The legend shall be optically centered horizontally on the sign. One side of the sign shall display a "STOP" face and the other side shall display the message "SLOW," except that if it is necessary for 1 traffic regulator to stop 2 directions of traffic at the same time, then a "STOP" face shall be used on each side of the sign. The "STOP" face shall have a red background with white letters and border. The "SLOW" face shall have an orange background with black letters and border. The shape of the sign shall be octagonal and the portions of the sign other than the diamond-shaped "SLOW" face shall be black. When the sign paddle is used during hours of darkness, the red and white of the "STOP" face and the orange of the "SLOW" face shall be reflectorized. Sheet metal or other light semi-rigid material may be used for mounting the "STOP" and "SLOW" faces.

~~(5) If signaling by a traffic regulator is necessary on construction operations that are not within a public right of way, then a hand-held paddle sign as specified in subrule (4) of this rule shall be used.~~

(4) (6) The paddle sign shall be as follows:



R1-1a

* SPACING REDUCED 40%

SIGN	DIMENSIONS (INCHES)										
	A	B	C	D	E	F	G	H	J	K	L
MINIMUM	18	6 C	3	.5	6 B	3	7.75	1.5	7.5	5.25	6.25
SPECIAL	24	8 C	4	.62	8 B	3.5	10	1.5	9.87	7.06	8.25

Note: "Special" sign dimensions are recommended for single traffic regulator operations.

~~(7) In periods of darkness, appropriate lighting shall be used to illuminate the traffic regulator and the traffic regulator station. The lighting shall be as is required in Part 6 of the MMUTCD, which is adopted by reference in R 408.42209. Appropriate lighting means lighting that illuminates the traffic regulator~~

~~so that he or she is visible to oncoming traffic and does not impair either the traffic regulator's or motorists' visibility due to blinding or shadowing.~~

(5) ~~(8)~~ An employer shall provide, and a traffic regulator shall wear, high-visibility safety apparel that meets the Performance Class 2 or 3 requirements of the ANSI/ISEA 107, "High-Visibility Safety Apparel and Headwear," 2004 edition, (see Section 1A.11), which is adopted by reference in R 408.42209, or equivalent revisions, and labeled as meeting the ANSI 107-2004 standard performance for Class 2 or 3 risk exposure.

~~(9) An employer shall require that the garment is inspected before each use for all of the following:~~

~~(a) Wear.~~

~~(b) Damage.~~

~~(c) Fading.~~

~~(d) Reflectivity.~~

~~(e) Other deterioration.~~

~~Defective garments shall be reported to the employer and the employer shall either repair or replace the garment.~~

(6) ~~(10)~~ A traffic regulator shall also wear head, eye, and foot protection as prescribed in Construction Safety Standard Part 6 Personal Protective Equipment, R 408.42209.

(7) ~~(11)~~ If vehicular traffic violates traffic laws and creates a hazard to employees performing construction operations, then an employer shall notify the appropriate law enforcement agencies of the unit of government exercising authority over the roadway for the enforcement of applicable speed limits and other traffic laws.

R 408.42224 Barricades for construction operations on other than public right-of-way.

Rule 2224. ~~(1) A barricade that has a high point of not less than 36 inches (900 millimeters) shall be provided to direct vehicular traffic to protect an employee performing construction operations.~~

~~(2) A barricade shall be provided to obstruct or direct an employee from a hazardous area of a construction operation not otherwise affected by another standard.~~

~~(3) If an employee is working during a period of darkness, then a barricade shall be made visible by ambient illumination or by attached lighting.~~

R 408.42229 Signs generally.

Rule 2229. ~~(1) A sign and its fastening device shall be free of sharp edges, burrs, splinters, or other sharp projections that could create a hazard.~~

~~(2) If conditions warrant the use of a sign size that is not specified in Tables 2 to 5, then the ratio of the height of the identifying panel, such as "DANGER" or "CAUTION," to the width of the sign shall be maintained as prescribed in the tables.~~

~~(2) (3) Signs shall be removed or covered when the hazard addressed by the sign no longer exists.~~

R 408.42241 Accident prevention tags generally.

Rule 2241. (1) An appropriate accident prevention tag shall be used as a temporary means of warning an employee of an existing hazard, such as defective tools or equipment. A tag shall not be used in place of an accident prevention sign or considered a complete warning method.

~~(2) A tag shall be affixed by string, wire, or adhesive.~~

~~(2) (3) A tag shall be large enough to attract attention to the hazard but not less than 2 3/8 inches (59 millimeters) by 4 3/4 inches (119 millimeters).~~

~~(3) (4) The signal word shall be in bold type.~~

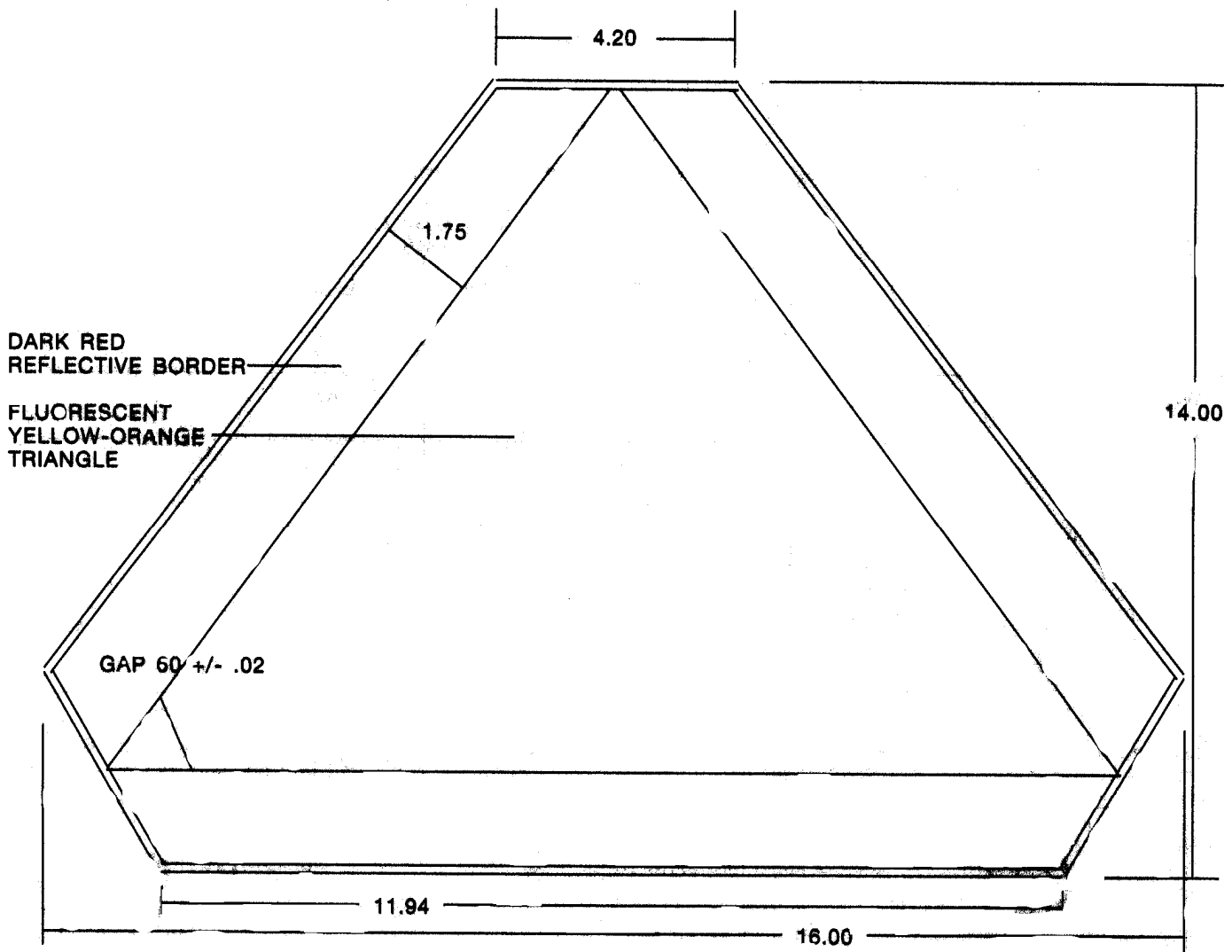
R 408.42243 Signs for slow-moving vehicles.

Rule 2243. ~~(1)~~ A sign as prescribed in this rule shall be attached to the rear of any vehicle that, by design, moves at 25 miles per hour or less on any public, private, or temporary road.

~~(2) The sign shall be entirely visible in daylight and at night from a distance of not less than 600 feet (180 meters).~~

~~(3) The sign shall be mounted point up and shall be placed centrally at the rear of the vehicle, unobscured, and at 3 feet (.9 meters) to 5 feet (1.5 meters) above the ground measured from the lower edge of the sign. The sign shall be securely attached to the vehicle.~~

SLOW MOVING VEHICLE IDENTIFICATION SIGN



(Note: Dimensions are in decimal inches.)

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF ~~LABOR AND ECONOMIC GROWTH~~ LICENSING AND REGULATORY
AFFAIRS**

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

Proposed Draft September 12, 2012

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of ~~labor and economic growth~~ **licensing and regulatory affairs** by sections 19 and 21 of 1974 PA 154, and Executive Reorganization Order Nos. **1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030** ~~1996-2 and 2003-18, MCL 408.1019, 408.1021, 445.2001, and 445.2011~~)

R 408.43205, R 408.43206, R 408.43208, R 408.43212, R 408.43214, and R 408.43216 of the Michigan Administrative Code are amended, and R 408.43203 of the Code is rescinded as follows:

PART 32. AERIAL WORK PLATFORMS

R 408.43203 Employer and employee responsibility. **Rescinded.**

Rule 3203. (1) An employer shall do all of the following:

- ~~(a) Provide training to employees in the operations, hazards, safeguards and safe practices described in these rules by a qualified person.~~
 - ~~(b) Ensure that employees do not engage in the activities to which these rules apply until such employees have received training.~~
 - ~~(c) Maintain an aerial device in a condition free of known defects and hazards which could cause an injury.~~
- (2) An employee shall do both of the following:**
- ~~(a) Operate an aerial device only after being trained in the operations, hazards, safeguards and safe practices required by these rules by a qualified person and authorized by the employer.~~
 - ~~(b) Report known defects and hazards concerning an aerial device to the supervisor.~~

R 408.43205 Construction.

Rule 3205. (1) Aerial work platforms shall be designed, constructed, and tested so as to be in compliance with the requirements of the following applicable American national standards institute standards:

- (a) ANSI standard A92.2, 2002 edition, "Vehicle-Mounted Elevating and Rotating Aerial Devices."**

(b) ANSI standard A92.3, 2006 edition, "Manually Propelled Elevating Aerial Platforms."

(c) ANSI standard A92.5, 2006 edition, "Boom-Supported Elevating Work Platforms."

(d) ANSI standard A92.6, 1999 edition, "Self-Propelled Elevating Work Platforms."

These standards are adopted by reference in R 408.43204a.

(2) Aerial work platforms shall not be field-modified for uses other than those intended by the manufacturer, unless the modification has been certified in writing by the manufacturer or by any other equivalent entity, such as a nationally recognized testing laboratory, to be in compliance with the applicable ANSI standard and this rule, and to be at least as safe as the equipment was before modification.

~~(3) Directional controls shall be in compliance with all of the following provisions:~~

~~(a) Be of the type that will automatically return to the off or neutral position when released.~~

~~(b) Be protected against inadvertent operation.~~

~~(c) Be clearly marked as to their intended function.~~

~~(d) An overriding control shall be provided in the platform which must be continuously activated for platform directional controls to be operational and which automatically returns to the off position when released.~~

(3) (4) Aerial work platforms shall be equipped with emergency controls at ground level.

~~(4) (5)~~ Emergency ground level controls shall be clearly marked as to their intended function and be capable of overriding the platform controls.

~~(6) All of the following information shall be clearly marked in a permanent manner on each aerial work platform:~~

~~(a) Special workings, cautions, or restrictions necessary for operation.~~

~~(b) Rated work load.~~

~~(c) A clear statement of whether or not the aerial work platform is electrically insulated.~~

~~(7) Rotating shafts, gears, and other moving parts that are exposed to contact shall be guarded, as prescribed in general industry safety standard Part 7. "Guards for Power Transmission," R 408.10701 to R 408.10765.~~

(5) (8) Attachment points shall be provided for fall protection devices for personnel who occupy the platform on aerial work platforms described in R 408.43202 (a) and (c). (See figures 1 and 3).

~~R 408.43206 Inspection; maintenance; testing.~~ **Insulated aerial device testing.**

~~Rule 3206. An employer shall comply with all of the following requirements:~~

~~(a) Each aerial work platform shall be inspected, maintained, repaired, and kept in proper working condition in accordance with the manufacturer's or owner's operating or maintenance and repair manual or manuals.~~

~~(b) Any aerial work platform found not to be in a safe operating condition shall be removed from service until repaired. All repairs shall be made by an authorized person in accordance with the manufacturer's or owner's operating or maintenance and repair manual or manuals.~~

~~(c)~~ If the aerial work platform is rated and used as an insulated aerial device, **an employer shall test** the electrical insulating components ~~shall be tested~~ for compliance with the rating of the aerial work platform in accordance with ANSI standard A92.2, 2002 edition, which ~~is~~ **was** adopted in R 408.43204a. Such testing shall comply with all of the following provisions:

~~(a) (i)~~ **The test shall be performed not less than annually.**

~~(b) (ii)~~ Written, dated, and signed test reports shall be made available by the employer for examination by a department representative.

~~(c) (iii)~~ The insulated portion of an aerial device shall not be altered in any manner that might reduce its insulating value.

~~(d) All danger, caution, and control markings and operational plates shall be legible and not obscured.~~

R 408.43208 Preoperational procedures.

Rule 3208. ~~(1) An operator shall inspect an aerial work platform for defects that would affect its safe operation and use before it is used on each work shift. The visual inspection shall consist of all of the following procedures:~~

~~(a) Visual inspection for all of the following:~~

~~(i) Cracked welds.~~

~~(ii) Bent or broken structural members.~~

~~(iii) Hydraulic or fuel leaks.~~

~~(iv) Damaged controls and cables.~~

~~(v) Loose wires.~~

~~(vi) Tire condition.~~

~~(vii) Fuel and hydraulic fluid levels.~~

~~(viii) Slippery conditions on the platform.~~

~~(b) Operate all platform and ground controls to ensure that they perform their intended function.~~

~~(2) Before the aerial work platform is used, and during use on the job site, the operator shall inspect for all of the following:~~

~~(a) Ditches.~~

~~(b) Drop-offs.~~

~~(c) Holes.~~

~~(d) Bumps and floor obstructions.~~

~~(e) Debris.~~

~~(f) Overhead obstructions.~~

~~(g) Power lines.~~

~~(h) Similar conditions to those specified in subdivisions (a) to (g) of this subrule. The area around the aerial work platform shall also be inspected to assure clearance for the platform and other parts of the unit.~~

~~(3) All unsafe items found as a result of the inspection of the aerial work platform or work area shall be corrected before further use of the aerial work platform.~~

~~(1) (4) The employer shall ensure before the commencement of operations near power lines and when the clearances cannot be maintained as specified in Tables 1-3, that the owner, owner representative, or utility are notified with all pertinent information about the job.~~

~~(2) (5) Any overhead wire shall be considered to be an energized line until the owner of the line, his or her authorized representative, or a utility representative assures **either one** of the following:~~

~~(a) The line is de-energized and has been visibly grounded.~~

~~(b) The line is insulated for the system voltages and the task will not compromise the insulation of the conductor and/or cause an electrical hazard.~~

R 408.43212 Vehicles; traffic control.

Rule 3212. (1) Before moving a vehicle supporting an aerial ladder for highway travel, employees shall secure ladders in the lower position and shall use the manually operated device at the base of the ladder, or other effective means to prevent elevation or rotation of the ladder.

(2) Before moving a vehicle supporting an aerial lift for travel, employees shall inspect the boom to ensure that it is properly cradled and the outriggers are in the stowed position, except as provided in subrule (3) of this rule.

(3) When a boom is elevated with employees in working position, the vehicle supporting an aerial device shall not be moved unless the equipment is specifically designed for this type of operation and meets the requirements of R 408.43205.

~~(4) Before and during travel, except as provided for horizontal movement in R 408.43216(9), an operator shall do all of the following:~~

~~(a) Inspect to see that booms, platforms, aerial ladders, or towers are properly cradled or secured.~~

~~(b) Ensure that outriggers are in a stored position.~~

~~(c) Limit travel speed according to the following factors:~~

~~(i) Condition of the surface.~~

~~(ii) Congestion.~~

~~(iii) Slope.~~

~~(iv) Location of personnel.~~

~~(v) Other hazards.~~

(4) (5) An employer shall ensure that operators of an aerial work platform over or adjacent to any public or private roadway maintain adequate clearances of all portions of the aerial work platform to prevent being struck by vehicular traffic.

(5) (6) When aerial work platforms are in use, all traffic control requirements shall be in compliance with Part 6 of the 2011 Michigan Manual on Uniform Traffic Control Devices (MMUTCD), which is adopted in R 408.43204a, and Construction Safety Part 22. Signals, Signs, Tags, and Barricades, as referenced in R 408.43204a.

R 408.43214 Fall protection.

Rule 3214. (1) The employer shall provide a safety harness that has a lanyard which is in compliance with construction safety standard Part 45. "Fall Protection," R 408.44501 to R 408.44502 and which is affixed to attachment points provided and approved by the manufacturer. Any occupant of an aerial work platform described in the provisions of R 408.43202(a) and (c) and figures 1 and 3 shall use the harness. A fall arrest system shall only be used where the aerial lift is designed to withstand the vertical and lateral loads caused by an arrested fall.

(2) An employee may use a body belt with a restraint device with the lanyard and the anchor arranged so that the employee is not exposed to any fall distance. An employee shall use a restraint device where the aerial lift cannot withstand the vertical and lateral loads imposed by an arrested fall.

(3) An employee shall be prohibited from belting off to an adjacent pole, structure, or equipment while working from an aerial work platform.

(4) An employer shall not allow employees to exit an elevated aerial work platform, except where elevated work areas are inaccessible or hazardous to reach. Employees may exit the platform with the knowledge and consent of the employer. When employees exit to unguarded work areas, fall protection shall be provided and used as required in construction safety standard Part 45. "Fall Protection," R 408.44501 to R 408.44502.

~~(5) An employer shall provide for prompt rescue of employees in the event of a fall or shall ensure that employees are able to rescue themselves.~~

R 408.43216 Operating procedures.

Rule 3216 (1) The aerial work platform shall be used only in accordance with the manufacturers or owners operating instructions and safety rules.

(2) The designed rated capacity for a given angle of elevation shall not be exceeded.

~~(3) Proximity warning devices may be used, but shall not be used to avoid meeting the requirements of this rule.~~

~~(4) The manufacturer's rated load capacity shall not be exceeded. The employer shall ensure that the load and its distribution on the platform are in accordance with the manufacturer's specifications. The aerial work platform rated load capacity shall not be exceeded when loads are transferred to the platform at elevated heights.~~

~~(5) Only employees, their tools, and necessary materials shall be on or in the platform.~~

~~(3) (6) The guardrail system of the platform shall not be used to support any of the following:~~

~~(a) Materials.~~

~~(b) Other work platforms.~~

~~(c) Employees.~~

~~(4) (7) Employees shall maintain firm footing on the platform while working on the platform. The use of railings, planks, ladders, or any other devices on the platform for achieving additional height is prohibited.~~

~~(8) Fuel gas cylinders shall not be carried on platforms that would allow the accumulation of gases.~~

~~(5) (9) Only aerial work platforms that are equipped with a manufacturer's installed platform controls for horizontal movement shall be moved while in the elevated position.~~

~~(6) (10) Before and during driving while elevated, an operator of a platform shall do both of the following:~~

~~(a) Look in the direction of, and keep a clear view of, the path of travel and make sure that the path is firm and level.~~

~~(b) Maintain a safe distance from all of the following:~~

~~(i) Obstacles.~~

~~(ii) Debris.~~

~~(iii) Drop-offs.~~

~~(iv) Holes.~~

~~(v) Depressions.~~

~~(vi) Ramps.~~

~~(vii) Overhead obstructions.~~

~~(viii) Overhead electrical lines.~~

~~(ix) Other hazards to safe elevated travel.~~

~~(7) (11) Outriggers or stabilizers, when provided, and are to be used in accordance with the manufacturer's instruction. Brakes shall be set and outriggers and stabilizers shall be positioned on pads or a solid surface.~~

~~(8) (12) Aerial work platforms shall be elevated only when on a firm and level surface or within the slope limits allowed by the manufacturer's instructions.~~

~~(9) (13) A vehicle-mounted aerial work platform (figure 1) shall have its brakes set before elevating the platform.~~

~~(10) (14) A vehicle-mounted aerial work platform (figure 1) shall have wheel chocks installed before using the unit on an incline.~~

~~(11) (15) Climbers shall not be worn while performing work from an aerial work platform.~~

~~(12) (16) Platform gates shall be closed while the platform is in an elevated position.~~

~~(13) (17) Altering, modifying, or disabling safety devices or interlocks is prohibited.~~

~~(18) Care shall be taken by the employer to prevent ropes, cords, and hoses from becoming entangled in the aerial work platform.~~

~~(19) A platform operator shall ensure that the area surrounding the aerial work platform is clear of personnel and equipment before lowering the platform.~~

~~(20) The aerial work platform shall not be positioned against another object to steady the platform.~~

- ~~(21) The aerial work platform shall not be operated from a position on a truck, trailer, railway car, floating vessel, scaffold, or similar equipment.~~
- ~~(22) The boom and platform of the aerial work platform shall not be used to move or jack the wheels off the ground unless the machine is designed for that purpose by the manufacturer.~~
- ~~(23) If the platform or elevating assembly becomes caught, snagged, or otherwise prevented from normal motion by adjacent structures or other obstacles so that control reversal does not free the platform, all employees shall exit from the platform before attempts are made to free the platform.~~
- ~~(24) Stunt driving and horseplay are prohibited.~~

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF STATE POLICE

MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS

PUBLIC SAFETY OFFICERS BENEFIT PROGRAM

Proposed Draft November 1, 2012

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the Michigan Commission on Law Enforcement Standards by section 3 of 2004 PA 46 and by section 9 of 1965 PA 380, MCL 28.633 and 16.109)

R 28.14965 is rescinded from the Code as follows:

R 28.14965 Request for a hearing. Rescinded.

~~Rule 15. (1) A claimant may, within 30 days after notification of ineligibility by the commission, request the commission to reconsider its finding of ineligibility. The commission shall provide the claimant the opportunity for a hearing which shall be held within 60 days after the request for reconsideration.~~

~~—(2) The claimant may waive the hearing and present written evidence to the commission within 60 days after the request. The request for hearing shall be made to the Executive Director, Michigan Commission on Law Enforcement Standards, 7426 North Canal Road, Lansing, Michigan 48913.~~

~~—(3) If requested, the hearing shall be conducted in a manner consistent with the provisions of the administrative procedures act and commission rules, R 28.14702 to R 28.14704.~~

~~—(4) A claimant may withdraw his or her request for a hearing at any time before the mailing of the decision by written notice to the hearing officer, or orally by so stating at the hearing. A claimant shall be considered to have abandoned his or her request for a hearing if he or she fails to appear at the time and place set for the hearing, and does not, within 10 days after the time set for the hearing, show good cause for failure to appear.~~

~~—(5) Payment of any portion of a death or permanent and total disability benefit, except an interim death benefit, shall not be made until all hearings and reviews which may affect that payment have been completed.~~

NOTICE OF PUBLIC HEARING

DEPARTMENT OF STATE POLICE
MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS

PUBLIC SAFETY OFFICERS BENEFIT PROGRAM
Rule Set 2012-119 SP

NOTICE OF PUBLIC HEARING

May 29, 2013

Michigan Commission on Law Enforcement Standards
106 W. Allegan, Suite 600
Lansing, Michigan
1:00 p.m.

The Michigan Commission on Law Enforcement Standards will hold a public hearing on Wednesday, May 29, 2013 at the offices of the Michigan Commission on Law Enforcement Standards, Lansing, Michigan at 1:00 p.m. The hearing will be held to receive public comments on proposed rules governing the Public Safety Officer Benefit Program.

The proposed rule will eliminate the hearing for reconsideration of a denial of benefits. Applicants may continue to seek a review of a denial of benefits in accordance with section 631 of the Revised Judicature Act of 1961, 1961 PA 236, MCL 600.631.

This rule is promulgated by authority conferred on the Michigan Commission on Law Enforcement Standards by section 3 of 2004 PA 46 and by section 9 of 1964 PA 380, MCL 28.633 and 16.109. This rule is proposed to take effect immediately upon filing with the Secretary of State.

The rules [Rule Set 2012-119 SP] are published on the Michigan Government website at <http://www7.dleg.state.mi.us/orr/AdminCode.aspx?admincode=Department&Dpt=SP> and in the May 15, 2013, issue of the *Michigan Register*. Individuals may submit written comments by mail or e-mail to the address listed below. Written comments must be received by 5:00 p.m. on May 29, 2013. Copies of the draft rules may also be obtained by mail or e-mail at the following address:

Department of State Police
Michigan Commission on Law Enforcement Standards
106 W. Allegan, Suite 600
P.O. Box 30633
Lansing, Michigan 48909

Phone: John F. Szczubelek at (517) 322-5435, e-mail: szczubelekj@michigan.gov

Any interested person may attend and participate. The hearing site is accessible, including handicapped parking. Persons needing any accommodation to participate should contact John F. Szczubelek at least 10 business days before the hearing to request mobility, visual, hearing or other assistance.

**OPINIONS OF THE
ATTORNEY GENERAL**

MCL 14.32 states in part:

“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

** * **

(j) Attorney general opinions.”

OPINIONS OF THE ATTORNEY GENERAL

STATE OF MICHIGAN

BILL SCHUETTE, ATTORNEY GENERAL

MICHIGAN NATURAL RESOURCES
TRUST FUND:

Expenditures from Natural Resources Trust
Fund and Michigan Conservation and
Recreation Legacy Fund for dredging.

MICHIGAN CONSERVATION AND
RECREATION LEGACY FUND,
WATERWAYS ACCOUNT:

DEPARTMENT OF NATURAL
RESOURCES:
CONSTITUTIONAL LAW:

CONST 1963, ART 9, § 35:

CONST 1963, ART 9, § 40:

Const 1963, art 9, § 35, authorizes the use of money in the Natural Resources Trust Fund for the development of public recreation facilities. Money from the Natural Resources Trust Fund therefore cannot be used for the maintenance of existing public recreation facilities, such as maintenance dredging of existing harbors.

Const 1963, art 9, § 40, and implementing legislation, Parts 20 and 781 of the Natural Resources and Environmental Protection Act, MCL 324.2001 *et seq.* and MCL 324.78101 *et seq.*, allow the use of funds in the Waterways Account of the Michigan Conservation and Recreation Legacy Fund for operation and maintenance of public recreation facilities, including the dredging of existing harbors. But such expenditures must be directed to public, rather than private, recreation facilities. And, consistent with MCL 324.78110(a)(ix), the primary purpose of the dredging must be to enhance access for recreational watercraft.

Opinion No. 7270

April 22, 2013

Mr. Keith Creagh, Director
Department of Natural Resources
Stevens T. Mason Building
530 West Allegan St.
P.O. Box 30026
Lansing, MI 48909

You have asked whether money from the Natural Resources Trust Fund established in Const 1963, art 9, § 35, and the Waterways Account of the Michigan Conservation and Recreation Legacy Fund established in Const 1963, art 9, § 40, may be used for dredging¹ existing public and private harbors and marinas along the Great Lakes that have been affected by low water levels.

I. Natural Resources Trust Fund – Const 1963, art 9, § 35

By way of background,² the citizens approved Const 1963, art 9, § 35 as an amendment to the Constitution, and thereby established the Natural Resources Trust Fund (Trust Fund), and prescribed the purposes for which interest and earnings of the Trust Fund shall be expended:

There is hereby established the Michigan Natural Resources Trust Fund. The trust fund shall consist of all bonuses, rentals, delayed rentals, and royalties collected or reserved by the state under provisions of leases for the extraction of nonrenewable resources from state owned lands, except such revenues accruing under leases of state owned lands acquired with money from state or federal game and fish protection funds or revenues accruing from lands purchased with such revenues.

* * *

The interest and earnings of the trust fund *shall be expended for the acquisition of land or rights in land for recreational uses or protection of the land because of its environmental importance or its scenic beauty, for the development of public recreation facilities, and for the administration of the trust fund*, which may include payments in lieu of taxes on state owned land purchased through the trust fund. The trust fund may provide grants to units of local government or public authorities which shall be used for the purposes of this section. [Emphasis added.]

¹ Dredging is the process of removing naturally occurring rock, sand, gravel, mud or clay from the bottom of waterways to create or maintain a sufficient depth for navigation or other purposes. See US Army Corps of Engineers, Dredging on the Great Lakes, available at www.lre.usace.army.mil/Portals/69/docs/Navigation/GreatLakesDredging/Introduction%20to%20Dredging%20Methods%20on%20the%20Great%20Lakes.pdf (accessed March 26, 2013).

² This provision was added to the Michigan Constitution in 1984 by Proposal B, a legislative initiative to amend the Constitution under Const 1963, art 12, § 1. The section was later amended by Proposal P in 1994, and Proposal 2 in 2002.

Const 1963, art 9, § 35 also provided for the establishment of a trust fund board to recommend the projects to be funded, a process for the appropriation of money from the Trust Fund, and implementing legislation as follows:

The legislature shall provide by law for the establishment of a trust fund board within the department of natural resources. The trust fund board shall recommend the projects to be funded. The board shall submit its recommendations to the governor who shall submit the board's recommendations to the legislature in an appropriations bill.

The legislature shall provide by law for the implementation of this section.

The Legislature enacted Part 19 of the Natural Resources and Environmental Protection Act (NREPA), MCL 324.1901 *et seq.*, to implement Const 1963, art 9, § 35.¹ MCL 324.1903 identifies the purposes for which interest and earnings of the Trust Fund may be expended, mirroring the constitutional language:

(1) Subject to the limitations of this part and of section 35 of article IX of the state constitution of 1963, the interest and earnings of the trust fund in any 1 state fiscal year may be expended in subsequent state fiscal years only for the following purposes:

(a) The acquisition of land or rights in land for recreational uses or protection of the land because of its environmental importance or its scenic beauty.

(b) The development of public recreation facilities.

(c) The administration of the fund, including payments in lieu of taxes on state-owned land purchased through the trust fund. The legislature shall make appropriations from the trust fund each state fiscal year to make full payments in lieu of taxes on state-owned land purchased through the trust fund, as provided in section 2154. [Emphasis added.]

¹ Before the 1995 enactment of Part 19 of the NREPA, art 9, § 35 was implemented by the Michigan Natural Resources Trust Fund Act, 1985 PA 101.

Michigan is well known for its waterways, and the State has an extensive network of harbors on the Great Lakes that are used by commercial and recreational watercraft.¹ To keep these harbors open to navigation, accumulated sediment must regularly be removed through maintenance dredging.² A growing backlog of unfunded federal dredging projects, exacerbated by the significant decline in Great Lakes water levels, has highlighted the need to dredge existing harbors to maintain navigation by recreational watercraft. As a result, some have questioned whether money from the Trust Fund could be spent for dredging and other maintenance purposes. The short answer to that question, as explained below, is no.

While the Legislature has the authority to implement Const 1963, art 9, § 35, and has already done so in Part 19, the Legislature cannot substantively change the meaning or scope of the constitutional language adopted by the people. The question thus becomes whether the relevant constitutional language – “development of public recreation facilities” – can be interpreted to include the maintenance dredging of existing harbors for use by recreational watercraft.

Michigan courts apply settled principles of law in interpreting constitutional provisions. “[T]he primary objective of constitutional interpretation, not dissimilar to any other exercise in judicial interpretation, is to faithfully give meaning to the intent of those who enacted the law.” *Nat’l Pride At Work, Inc v Governor*, 481 Mich 56, 67; 748 NW2d 524 (2008). See also, *Michigan United Conservation Clubs v Treasury Dep’t*, 239 Mich App 70, 76-82; 608 NW2d 141 (1999) (Interpreting phrase “bonuses, rentals, delayed rentals, and royalties,” in Const 1963, art 9, § 35). The courts

¹ Michigan harbors are listed at: <www.michigan.gov/dnr/0,4570,7-153-10365_10884_18317-238175--,00.html> (accessed March 26, 2013). Federal harbors on the Great Lakes are listed at: <www.lre.usace.army.mil/Missions/GreatLakesNavigation/GreatLakesHarborFactSheets.aspx> (accessed March 26, 2013). The US Army Corps of Engineers has primary responsibility for projects that support commercial and recreational navigation on the Great Lakes. See, e.g. <www.lre.usace.army.mil/Missions/GreatLakesNavigation.aspx> (accessed March 26, 2013). Your question focuses on dredging associated with recreational harbors and marinas in Michigan.

² See, e.g. Great Lakes Commission, <www.glc.org/dredging/documents/brochure_dogl_11-16.pdf> (accessed April 18, 2013) and n 1, *supra*, US Army Corps of Engineers, Dredging on the Great Lakes.

“typically discern[] the common understanding of constitutional text by applying each term’s plain meaning at the time of ratification.” *Nat’l Pride At Work*, 481 Mich at 67-68, citing *Wayne County v Hathcock*, 471 Mich 445, 468-469; 684 NW2d 765 (2004). Where a constitutional term is undefined, dictionary definitions may be consulted to determine its meaning. *Nat’l Pride At Work*, 481 Mich at 69-76.

Here, the relevant language of Const 1963, art 9, § 35 is “the *development* of public recreation facilities.”(Emphasis added). As used in this context, “development” or “develop” means to: “convert (land) to a new purpose by constructing buildings or making other use of its resources.” *Oxford Dictionaries* (2013).¹ Thus, the term “development” of public recreation facilities can be understood to mean projects to construct new facilities where there were none before, or to change the purpose or function of existing public recreation facilities. Under this definition, the recurring dredging of existing harbors needed to maintain sufficient depth for navigation does not qualify as the “development” of public recreation facilities. Rather, such dredging constitutes the “maintenance” of previously developed public recreation facilities, i.e. “[t]he work of keeping something in proper condition; upkeep.” *The American Heritage College Dictionary* (1997). In fact, as noted above, this activity is commonly referred to as “maintenance dredging.”² The distinction between “development” and “maintenance” of recreation facilities is evidenced by comparing the language of Const 1963, art 9, § 35, to that of other closely related provisions of Michigan’s Constitution. Const 1963, art 9, § 35a, established the Michigan State Parks Endowment Fund (Endowment Fund) and provides that money in the Endowment Fund may be used not only for land acquisition and capital improvements (as in the case of the Trust Fund), but also for maintenance of state park facilities: “Money available for expenditure from the endowment fund as provided in this section shall be expended for operations, *maintenance*, and

¹ Oxford University Press, available at <<http://oxforddictionaries.com/>> (accessed April 22, 2013).

² See n 5, *supra*.

capital improvements at Michigan state parks and for the acquisition of land or rights in land for Michigan state parks.” (Emphasis added.) Similarly, and as discussed in greater detail below, Const 1963, art 9, § 40, which establishes the Michigan Conservation and Recreation Legacy Fund, provides that money in the Waterways Account may be used not only for “construction . . . of recreational boating facilities” and “acquisition and development of harbors,” but also for “maintenance” of those facilities.¹

Although Const 1963, art 9, § 35, does not use the terms “capital improvement” or “capital outlay,” the implementing legislation, Part 19 of NREPA, as most recently amended by 2012 PA 619, reflects the understanding that an appropriation from the Trust Fund for a recreation development project is a “capital outlay.” It provides that “[f]ollowing the appropriation of money from the trust fund, if the public recreation project changes significantly, the board shall submit the changes to the joint capital outlay subcommittee of the legislature to review whether the proposed changed project is consistent with the purpose of the appropriation.” MCL 324.1907a(2). The Uniform Budgeting and Accounting Act, MCL 141.421 *et seq.*, defines “capital outlay” as “a disbursement of money which results in the *acquisition of, or addition to, fixed assets.*” MCL 141.422b(2) (emphasis added). The Management and Budget Act, MCL 18.1101 *et seq.*, similarly defines “capital outlay” as “a project or facility financed either in whole or in part with state funds, including lease purchase agreements, to demolish, *construct, renovate, or equip a building or facility.*” MCL 18.1113(1) (emphasis added). Thus, a project for the development of public recreation facilities under Const 1963, art 9, § 35, and Part 19 is properly understood as a one-time expenditure to build or expand facilities for long-term use, as opposed to paying for recurring costs needed to maintain facilities that already exist.

¹ Other provisions of Const 1963, art 9, § 40, pertaining to the Forest Recreation, Game and Fish Protection, Off-Road Vehicle, Snowmobile, and State Park Improvement Accounts, also each authorize the use of the respective funds for, among other purposes, “maintenance.”

In light of the plain language of Const 1963, art 9, § 35, the common meaning of the term “development,” and the absence of any reference to “maintenance” in that provision, art 9, § 35 does not authorize the use of Trust Fund money for the maintenance of existing recreational facilities, including maintenance dredging of Great Lakes harbors for use by recreational watercraft. As worthy and necessary a purpose dredging may be, particularly in light of present lake levels, such use of Trust Fund money would constitute a misappropriation, contrary to the expressed intent of the Legislature that created the Trust Fund, and as approved by the voters of this State. The Legislature is certainly free to seek to amend art 9, § 35, as it has successfully done in the past, to permit the use of Trust Fund money for this purpose. But until that time, the words of the Constitution prohibit use of the Trust Fund as an expedient source of revenue to solve this pressing public policy concern.

It is my opinion, therefore, that Const 1963, art 9, § 35, authorizes the use of money in the Natural Resources Trust Fund for the development of public recreation facilities. Money from the Natural Resources Trust Fund therefore cannot be used for the maintenance of existing public recreation facilities, such as maintenance dredging of existing harbors.

II. Michigan Conservation and Recreation Legacy Fund, Waterways Account – Const 1963, art 9, § 40

As noted above, Const 1963, art 9, § 40, established the Michigan Conservation and Recreation Legacy Fund, and within that fund, established and dedicated the Waterways Account for specified purposes related to public waterways and recreational boating.¹ This provision, in contrast to art 9, § 35,

¹ This provision was added to the Michigan Constitution by Proposal No. 06-1, a legislative initiative under Const 1963, art 12, § 1.

regarding the Trust Fund, specifically authorizes the expenditure of the dedicated funds for maintenance of public recreational boating facilities to facilitate public access to state waterways:

The waterways account is established as an account within the legacy fund. The waterways account shall consist of revenue derived from watercraft registration fees assessed on the ownership or operation of watercraft in the state; revenue derived from fees charged for the moorage of watercraft at state-operated mooring facilities; revenue derived from fees charged for the use of state-operated public access sites; transfers from the recreation improvement account; all tax revenue derived from the sale of diesel fuel in this state that is used to generate power for the operation or propulsion of vessels on the waterways of the state; and other revenues as authorized by law. *Money in the waterways account shall be expended only for the following:*

(a) *The construction, operation, and maintenance of recreational boating facilities that provide public access to waterways or moorage of watercraft.*

(b) The acquisition of property for the purpose of paragraph (a).

(c) *Grants to local units of government and state colleges and universities for the provision of public access or moorage of watercraft and law enforcement or boating education to recreational watercraft operators.*

(d) The acquisition and development of harbors and public access sites.

* * *

(g) *Other uses as provided by law as long as the uses are consistent with the development, improvement, operation, promotion, and maintenance of the state's waterways programs.*

* * *

The legislature shall provide by law for the implementation of this section.
[Const 1963, art 9, § 40; emphasis added.]

The Legislature has provided for the implementation of this constitutional provision in Part 20, Michigan Conservation and Recreation Legacy Fund, of the NREPA, MCL 324.2001 *et seq.* MCL 324.2035(3) provides:

Money in the waterways account shall be expended, upon appropriation, only as provided in parts 445, 781, 791, and 801 and for the administration of the waterways account, which may include payments in lieu of taxes on state owned lands purchased through the waterways account or through the former Michigan state waterways fund. [Emphasis added.]

The Parts of NREPA relevant to your question are Part 781, Michigan State Waterways Commission, MCL 324.78101 *et seq.* and Part 791, Harbor Development, MCL 324.79101 *et seq.* Of those two, Part 781 is most instructive.

MCL 324.78105(1) broadly empowers the Department of Natural Resources to construct and maintain harbors, channels, and facilities for vessels and, among other things, take actions necessary for dredging of such areas:

(1) The department shall have the following powers and duties:

(a) To acquire, construct, and *maintain harbors, channels,* and facilities for vessels in the navigable waters lying within the boundaries of this state.

* * *

(c) To acquire, by purchase, lease, gift, or condemnation suitable areas on shore for disposal of the material from *dredging*. [Emphasis added.]

MCL 324.78110 comprehensively lists the purposes for which money in the Waterways Account may be used, including, among other things, maintenance associated with recreational boating facilities, and dredging to make a water body accessible for recreational boats:

Money in the waterways account shall be used only for the following:

(a) The construction, operation, and *maintenance* of the following that are *associated with recreational boating facilities*:

* * *

(ix) *Dredging*, stump removal, and aquatic weed control when the activities can be shown *to clear lanes to make a water body more accessible primarily for recreational boats* as opposed to general navigation. [Emphasis added.]

Given the express language of Const 1963, art 9 § 40, and of Parts 20 and 781 quoted above, money in the Waterways Account may be used for dredging existing harbors in order to maintain public access to and recreational boating on state waters. But, given the express language of Const 1963, art 9, § 40, focusing on “public access” and “recreational boating” such expenditures must be directed to public, rather than private facilities. And, consistent with MCL 324.78110(a)(ix), the primary purpose of the dredging must be to enhance access for recreational watercraft.

It is my opinion, therefore, that Const 1963, art 9, § 40, and its implementing legislation, Parts 20 and 781 of the NREPA, allow the use of funds in the Waterways Account of the Michigan Conservation and Recreation Legacy Fund for operation and maintenance of public recreation facilities, including the dredging of existing harbors. But such expenditures must be directed to public, rather than private, recreation facilities. And, consistent with MCL 324.78110(a)(ix), the primary purpose of the dredging must be to enhance access for recreational watercraft.



BILL SCHUETTE
Attorney General

**CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION**

MCL 24.256(1) states in part:

“Sec. 56. (1) The Office of Regulatory Reform shall perform the editorial work for the Michigan register and the Michigan Administrative Code and its annual supplement. The classification, arrangement, numbering, and indexing of rules shall be under the ownership and control of the Office of Regulatory Reform, shall be uniform, and shall conform as nearly as practicable to the classification, arrangement, numbering, and indexing of the compiled laws. The Office of Regulatory Reform may correct in the publications obvious errors in rules when requested by the promulgating agency to do so...”

**CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION**

April 18, 2013

Ms. Deidre O’Berry
Office of Regulatory Reinvention
Department of Licensing and Regulatory Affairs
Ottawa Building
611 West Ottawa Street
Lansing, Michigan 48933

Dear Ms. O’Berry:

SUBJECT: Request for Correction of the Michigan Administrative Code

The Department of Licensing and Regulatory Affairs (LARA), as the promulgating agency, is writing to request that the Office of Regulatory Reinvention exercise its discretion to correct obvious errors in the Michigan Administrative Code (MAC), pursuant to Section 56(1), MCL 24.256, of the Administrative Procedures Act, 1969 PA 306, as amended.

Errors are contained in MIOSHA General Industry Safety Standard Part 74 Fire Fighting. The rules become effective on April 24, 2013.

The certified version of the rules filed with the Office of the Great Seal contained obvious errors in 2 rules. These rules match the language that was published in the Michigan Register, Issue No. 21 on December 1, 2012. Below you will find the 2 rules with the error highlighted in yellow, as follows:

There is a comma (,) instead of a period (.) in the middle of a rule:

(By authority conferred on the director of the department of consumer and industry services **licensing and regulatory affairs** by sections 19 and 21 of 1974 PA 154, **MCL 408.1019 and 408.1021**, and Executive Reorganization Order Nos. 1996-2, 2003-18 **2003-1**, 2008-4, and 2011-4, MCL 408.1019, 408.1021, 445.2001, **445.2011**, 445.2025, and 445.2030)

The R is missing in front of the rule:

408.17411. Duties of employer.
Rule 7411. (1)

The corrected language would read as follows:

(By authority conferred on the director of the department of consumer and industry services licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154, MCL 408.1019 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-18

2003-1, 2008-4, and 2011-4, MCL 408.1019, 408.1021, 445.2001, **445.2011**, 445.2025, and 445.2030)

And

R 408.17411. Duties of employer.
Rule 7411. (1)

Please note the corrections in both the *Michigan Register* and the Michigan Administrative Code.

Sincerely,

Dena Hendon

Dena Hendon
Michigan Occupational Safety and Health Administration
MIOSHA Standards Analyst
517.322.1489

ddh

**CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION**

April 24, 2013

Ms. Liz Smalley
The Office of Regulatory Reinvention
P.O. Box 30004
611 W. Ottawa St.
Lansing, MI 48909

RE: Correction to R 338.3120 pursuant to MCL 24.256(1)

Dear Ms. Smalley:

The numbering [(a), (b), and (c)] for three substances in subrule (2) of R 338.3120 is incorrect. Pursuant to section 56(1) of the Administrative Procedures Act (APA), being MCL 24.256(1), we are asking you to make the following correction to an obvious error in R 338.3120 of the Board of Pharmacy Controlled Substances administrative rules. Please see the bold print below.

R 338.3120 Schedule 3; stimulants; depressants; nalorphine.

Rule 20. (1) Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and the salts of such isomers, when the existence of such salts, isomers, and the salts of isomers is possible within the specific chemical designation, is included in schedule 3:

- (a) Benzphetamine.
- (b) Chlorphentermine.
- (c) Clortermine.
- (d) Phendimetrazine.

(2) Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and the salts of such isomers, when the existence of such salts, isomers, and the salts of isomers is possible within the specific chemical designation, is included in schedule 3:

- (a) Chlorhexadol.**

(b) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act of 1938, 21 U.S.C. §301 et seq.

- (c) Ketamine.**
- (d) Lysergic acid.**
- (e) Lysergic acid amide.**
- (f) Methyprylon.**
- (g) Pentazocine.**
- (h) Sulfondiethylmethane.**
- (i) Sulfonethylmethane.**

(j) Sulfonmethane.

(k) Tiletamine-zolazepam.

(3) A compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or a salt thereof and 1 or more other active medicinal ingredients that are not listed in a schedule is included in schedule 3.

(4) A suppository dosage form which contains amobarbital, secobarbital, pentobarbital, or a salt of any of these drugs and which is approved by the food and drug administration for marketing only as a suppository is included in schedule 3.

(5) A substance that contains any quantity of a derivative of barbituric acid or any salt thereof is included in schedule 3.

(6) Nalorphine is included in schedule 3.

(7) Buprenorphine is included in schedule 3.

If you have any questions regarding this submission, please contact me at 517-241-1138. Thank you.

Respectfully submitted,

Kelly Hugh
Kelly Hugh
Policy Analyst
Bureau of Health Care Services
Department of Licensing and Regulatory Affairs

MICHIGAN ADMINISTRATIVE CODE TABLE
(2013 SESSION)

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(i) Other official information considered necessary or appropriate by the Office of Regulatory Reform.”

The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

MICHIGAN ADMINISTRATIVE CODE TABLE
(2013 RULE FILINGS)

R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue
29.2901	A	5	205.1111	R	6	205.1288	R	6
29.2902	A	5	205.1115	R	6	205.1290	R	6
29.2903	A	5	205.1120	R	6	205.1301	R	6
29.2904	A	5	205.1125	R	6	205.1303	R	6
29.2905	A	5	205.1130	R	6	205.1305	R	6
29.2906	A	5	205.1135	R	6	205.1307	R	6
29.2907	A	5	205.1140	R	6	205.1312	R	6
29.2908	A	5	205.1145	R	6	205.1313	R	6
29.2909	A	5	205.1150	R	6	205.1315	R	6
29.2910	A	5	205.1155	R	6	205.1317	R	6
29.2911	A	5	205.1201	R	6	205.1320	R	6
29.2912	A	5	205.1202	R	6	205.1330	R	6
29.2913	A	5	205.1205	R	6	205.1332	R	6
29.2914	A	5	205.1208	R	6	205.1333	R	6
29.2915	A	5	205.1210	R	6	205.1335	R	6
29.2916	A	5	205.1215	R	6	205.1340	R	6
29.2917	A	5	205.1220	R	6	205.1342	R	6
29.2918	A	5	205.1222	R	6	205.1345	R	6
29.2919	A	5	205.1225	R	6	205.1348	R	6
29.2920	A	5	205.1228	R	6	209.1	*	5
29.2921	A	5	205.1230	R	6	209.31	*	5
29.2922	A	5	205.1235	R	6	285.138.1	R	5
29.2923	A	5	205.1240	R	6	299.3301	R	2
29.2924	A	5	205.1245	R	6	299.3302	R	2
29.2925	A	5	205.1247	R	6	299.3303	R	2
29.2926	A	5	205.1249	R	6	299.3304	R	2
205.5	R	8	205.1250	R	6	299.3305	R	2
205.9	R	8	205.1252	R	6	299.3306	R	2
205.23	R	8	205.1255	R	6	299.3307	R	2
205.1	*	8	205.1257	R	6	299.3308	R	2
205.8	*	8	205.1260	R	6	299.3309	R	2
205.15	*	8	205.1264	R	6	299.3310	R	2
205.16	*	8	205.1270	R	6	299.3311	R	2
205.20	*	8	205.1275	R	6	299.3312	R	2
205.22	*	8	205.1278	R	6	299.3313	R	2
205.26	*	8	205.1280	R	6	299.3314	R	2
205.28	*	8	205.1281	R	6	299.3315	R	2
205.136	*	8	205.1283	R	6	299.3316	R	2
205.1101	R	6	205.1285	R	6	299.3317	R	2

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

2013 MR 8 – May 15, 2013

R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue
299.3318	R	2	324.1506	R	2	325.5681	A	8
299.3319	R	2	324.1507	R	2	325.5682	A	8
299.5105	R	2	324.1508	R	2	325.5683	A	8
299.5107	R	2	324.1509	R	2	325.5684	A	8
299.5109	R	2	324.1509a	R	2	325.5685	A	8
299.5111	R	2	324.1510	R	2	325.5686	A	8
299.5113	R	2	324.1511	R	2	325.5687	A	8
299.5117	R	2	325.5601	*	8	325.5688	A	8
299.5401	R	2	325.5602	*	8	325.5689	A	8
299.5403	R	2	325.5603	*	8	325.5690	A	8
299.5405	R	2	325.5605	*	8	325.5691	A	8
299.5407	R	2	325.5607	*	8	325.5692	A	8
299.5409	R	2	325.5608	*	8	325.5693	A	8
299.5411	R	2	325.5610	*	8	325.5694	A	8
299.5413	R	2	325.5611	*	8	325.5695	A	8
299.5415	R	2	325.5612	*	8	325.5696	A	8
299.5530	R	2	325.5613	*	8	325.5697	A	8
299.5532	R	2	325.5637	*	8	325.5698	A	8
299.5534	R	2	325.5655	*	8	325.5617	R	8
299.5536	R	2	325.5656	*	8	325.5618	R	8
299.5538	R	2	325.5601a	A	8	325.5619	R	8
299.5540	R	2	325.5626	A	8	325.5621	R	8
299.5732	R	2	325.5627	A	8	325.5622	R	8
299.5742	R	2	325.5628	A	8	325.5623	R	8
299.5901	R	2	325.5629	A	8	325.5624	R	8
299.5903	R	2	325.5630	A	8	325.5625	R	8
299.5905	R	2	325.5634	A	8	325.5631	R	8
299.5907	R	2	325.5635	A	8	325.5632	R	8
299.5909	R	2	325.5357	A	8	325.5633	R	8
299.5911	R	2	325.5658	A	8	325.5638	R	8
299.5913	R	2	325.5667	A	8	325.5639	R	8
299.5915	R	2	325.5668	A	8	325.5640	R	8
299.5917	R	2	325.5674	A	8	325.5641	R	8
299.5919	R	2	325.5675	A	8	325.5642	R	8
324.1501	R	2	325.5676	A	8	325.5643	R	8
324.1502	R	2	325.5677	A	8	325.5644	R	8
324.1503	R	2	325.5678	A	8	325.5645	R	8
324.1504	R	2	325.5679	A	8	325.5646	R	8
324.1505	R	2	325.5680	A	8	325.5647	R	8

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue
325.5648	R	8	325.50328	R	7	338.7	*	6
325.5649	R	8	325.50329	R	7	338.108	R	6
325.5650	R	8	325.50330	R	7	338.3201	R	5
325.5651	R	8	325.50331	R	7	338.3202	R	5
325.5652	R	8	325.50332	R	7	338.3204	R	5
325.5659	R	8	325.50333	R	7	338.3206	R	5
325.5660	R	8	325.50334	R	7	338.3208	R	5
325.5661	R	8	325.50335	R	7	338.3218	R	5
325.5662	R	8	325.50336	R	7	338.3219	R	5
325.5663	R	8	325.50337	R	7	338.3220	R	5
325.5664	R	8	325.50338	R	7	338.3221	R	5
325.5665	R	8	325.50339	R	7	338.3231	R	5
325.50301	*	7	325.50340	R	7	338.3232	R	5
325.50303	*	7	325.50341	R	7	338.3233	R	5
325.50304	*	7	325.50342	R	7	338.3234	R	5
325.50302	R	7	325.50343	R	7	338.3235	R	5
325.50305	R	7	325.50344	R	7	338.3236	R	5
325.50306	R	7	325.50345	R	7	338.3238	R	5
325.50307	R	7	325.50346	R	7	338.3239	R	5
325.50308	R	7	325.50347	R	7	338.3241	R	5
325.50309	R	7	325.50348	R	7	338.3242	R	5
325.50310	R	7	325.51101	*	6	338.3243	R	5
325.50311	R	7	325.51105	*	6	338.3251	R	5
325.50312	R	7	325.51108	*	6	338.3252	R	5
325.50313	R	7	325.51101a	A	6	338.3253	R	5
325.50314	R	7	325.51190	*	7	338.3254	R	5
325.50315	R	7	325.51143	R	7	338.3255	A	5
325.50316	R	7	325.60151	*	6	338.3256	A	5
325.50317	R	7	325.60154	*	6	338.3257	R	5
325.50318	R	7	325.60155	*	6	338.3258	R	5
325.50319	R	7	325.60156	*	6	338.3259	R	5
325.50320	R	7	325.60157	*	6	338.3261	R	5
325.50321	R	7	325.60158	*	6	338.3262	R	5
325.50322	R	7	325.60159	*	6	338.3263	R	5
325.50323	R	7	325.60160	*	6	338.3264	R	5
325.50324	R	7	325.60161	*	6	338.3265	R	5
325.50325	R	7	325.60151a	A	6	338.3266	R	5
325.50326	R	7	336.1310	*	6	338.3267	R	5
325.50327	R	7	336.1330	R	6	338.3268	R	5

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue
338.3269	R	5	339.22507	R	5	408.10925	*	1
338.3270	R	5	339.22509	R	5	408.10999	*	1
338.3281	R	5	339.22511	R	5	408.11432	*	6
338.3282	R	5	339.22513	R	5	408.11431	R	6
338.3283	R	5	339.22515	R	5	408.11434	R	6
338.3284	R	5	339.22517	R	5	408.11724	*	6
338.3291	R	5	339.22519	R	5	408.11725	*	6
338.3292	R	5	339.22521	R	5	408.12216	*	7
338.3295	R	5	339.22523	R	5	408.12217	*	7
338.3301	R	5	339.22525	R	5	408.12218	*	7
338.3302	R	5	339.22527	R	5	408.12220	*	7
338.3303	R	5	339.22529	R	5	408.12242	*	7
338.3304	R	5	339.23101	*	5	408.12202	A	7
338.3307	R	5	339.23102	*	5	408.12231	R	7
338.3311	R	5	340.1121	*	6	408.13811	*	7
338.3312	R	5	340.1122	*	6	408.13812	*	7
338.3313	R	5	340.1123	R	6	408.13822	*	7
338.3314	R	5	340.1124	R	6	408.13847	*	7
338.3317	R	5	400.400	R	6	408.13865	*	7
338.3321	R	5	400.410	R	6	408.13871	*	7
338.3324	R	5	400.411	R	6	408.13881	*	7
338.3327	R	5	408.48	*	5	408.13802	A	7
338.3331	R	5	408.59	*	5	408.14246	*	6
338.3332	R	5	408.10413	R	1	408.14263	*	6
338.3335	R	5	408.10421	*	1	408.14267	*	6
338.3341	R	5	408.10509	*	1	408.14269	*	6
338.3345	R	5	408.10541	*	1	408.14273	*	6
338.3451	R	5	408.10570	*	1	408.14231	R	6
338.3455	R	5	408.10579	*	1	408.14451	*	8
338.3456	R	5	408.10580	*	1	408.14476	*	8
338.3461	R	5	408.10582	*	1	408.15712	*	8
338.3463	R	5	408.10590	*	1	408.15713	*	8
338.3464	R	5	408.10761	R	1	408.15717	*	8
338.3465	R	5	408.10763	R	1	408.15721	*	8
338.3466	R	5	408.10765	*	1	408.15723	*	8
338.23030	R	6	408.10801	*	1	408.15725	*	8
339.22501	R	5	408.10807	*	1	408.15726	*	8
339.22503	R	5	408.10823	*	1	408.15739	*	8
339.22505	R	5	408.10914	*	1	408.15802	*	8

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue
408.15810	*	8	408.30022	*	6	408.40627	R	6
408.15815	*	8	408.30025	*	6	408.40632	R	6
408.15821	*	8	408.30028	*	6	408.40641	R	6
408.15831	*	8	408.30031	*	6	408.40709	*	6
408.15833	*	8	408.30034	*	6	408.40711	*	6
408.16511	*	6	408.30037	*	6	408.40712	*	6
408.16528	*	6	408.30040	*	6	408.40721	*	6
408.17125	R	6	408.30043	*	6	408.40722	*	6
408.17303	*	8	408.30046	*	6	408.40743	*	6
408.17310	*	8	408.30049	*	6	408.40744	*	6
408.17315	*	8	408.30052	*	6	408.40746	*	6
408.17318	*	8	408.30055	*	6	408.40751	*	6
408.17320	*	8	408.30002	A	6	408.40761	*	6
408.17403	*	8	408.40102	*	6	408.40714	R	6
408.17404	*	8	408.40114	*	6	408.40729	R	6
408.17405	*	8	408.40116	*	6	408.40742	R	6
408.17411	*	8	408.40119	*	6	408.40810	*	7
408.17412	*	8	408.40121	*	6	408.40818	*	7
408.17415	*	8	408.40122	*	6	408.40819	*	7
408.17421	*	8	408.40127	*	6	408.40820	*	7
408.17422	*	8	408.40128	*	6	408.40821	*	7
408.17423	*	8	408.40130	*	6	408.40822	*	7
408.17424	*	8	408.40131	*	6	408.40831	*	7
408.17426	*	8	408.40132	*	6	408.40833	*	7
408.17431	*	8	408.40133	*	6	408.40834	*	7
408.17432	*	8	408.40134	*	6	408.40836	*	7
408.17433	*	8	408.40133	R	6	408.40837	*	7
408.17434	*	8	408.40125	R	6	408.40840	*	7
408.17435	*	8	408.40126	R	6	408.40841	*	7
408.17436	*	8	408.40617	*	6	408.40932	*	6
408.17437	*	8	408.40621	*	6	408.40933	*	6
408.17451	*	8	408.40622	*	6	408.40941	*	6
408.17461	*	8	408.40623	*	6	408.40851	*	6
408.17463	*	8	408.40624	*	6	408.40946	R	6
408.30001	*	6	408.40625	*	6	408.40952	R	6
408.30007	*	6	408.40626	*	6	408.41111	*	7
408.30013	*	6	408.40631	*	6	408.41122	*	7
408.30016	*	6	408.40634	*	6	408.41123	*	7
408.30019	*	6	408.40635	*	6	408.41124	*	7

(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue
408.41126	*	7	408.41410	*	8	408.41959	*	7
408.41132	*	7	408.41462	*	8	408.41964	*	7
408.41133	*	7	408.41464	*	8	408.41977	*	7
408.41140	*	7	408.41465	*	8	408.41980	*	7
408.41102	R	7	408.41466	*	8	408.41902	A	7
408.41115	R	7	408.41467	*	8	408.41931	R	7
408.41125	R	7	408.41472	*	8	408.41956	R	7
408.41130	R	7	408.41475	*	8	408.41970	R	7
408.41131	R	7	408.41476	*	8	408.41971	R	7
408.41210	*	7	408.41477	*	8	408.41974	R	7
408.41211	*	7	408.41478	*	8	408.41975	R	7
408.41215	*	7	408.41482	*	8	408.41979	R	7
408.41217	*	7	408.41075a	A	8	408.42031	*	6
408.41221	*	7	408.41077a	A	8	408.42034	*	6
408.41222	*	7	408.41468	R	8	408.42041	*	6
408.41224	*	7	408.41610	*	1	408.42043	*	6
408.41225	*	7	408.41627	*	1	408.42045	*	6
408.41226	*	7	408.41633	*	1	408.42046	*	6
408.41227	*	7	408.41658	*	1	408.42047	*	6
408.41231	*	7	408.41719	*	1	408.42131	R	1
408.41232	*	7	408.41725	*	1	408.42145	R	1
408.41233	*	7	408.41728	*	1	408.42149	*	1
408.41234	*	7	408.41802	*	7	408.42156	*	1
408.41235	*	7	408.41841	*	7	408.42157	*	1
408.41236	*	7	408.41852	*	7	408.42159	*	1
408.41237	*	7	408.41872	*	7	408.42160	R	1
408.41243	*	7	408.41884	*	7	408.42209	*	8
408.41245	*	7	408.41842	R	7	408.42213	*	8
408.41253	*	7	408.41850	R	7	408.42223	*	8
408.41254	*	7	408.41932	*	7	408.42225	*	8
408.41255	*	7	408.41934	*	7	408.42238	*	8
408.41256	*	7	408.41935	*	7	408.42402	*	1
408.41261	*	7	408.41943	*	7	408.42403	*	1
408.41264	*	7	408.41945	*	7	408.42404	*	1
408.41228	R	7	408.41949	*	7	408.42405	*	1
408.41244	R	7	408.41952	*	7	408.42406	*	1
408.41246	R	7	408.41953	*	7	408.42407	*	1
408.41262	R	7	408.41954	*	7	408.42502	*	1
408.41263	R	7	408.41957	*	7	408.42503	*	1

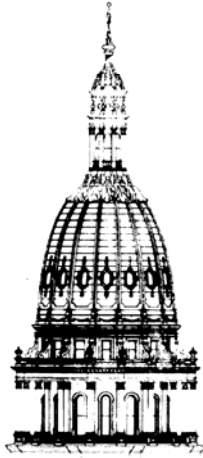
(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue
408.42518	*	1	408.43125	R	7	484.90	*	8
408.42520	*	1	408.43126	R	7	491.101	R	3
408.42521	*	1	408.43127	R	7	491.110	R	3
408.42522	*	1	408.43131	R	7	491.115	R	3
408.42524	*	1	408.43132	R	7	491.120	R	3
408.42525	*	1	408.43133	R	7	491.125	R	3
408.42526	*	1	408.43134	R	7	491.130	R	3
408.42527	*	1	408.43141	R	7	491.135	R	3
408.42528	*	1	408.43142	R	7	491.140	R	3
408.42531	*	1	408.43145	R	7	491.145	R	3
408.42532	*	1	408.43146	R	7	491.150	R	3
408.42533	*	1	408.43151	R	7	491.155	R	3
408.42534	R	1	408.43152	R	7	491.160	R	3
408.42535	R	1	408.43153	R	7	491.165	R	3
408.42602	*	1	408.43154	R	7	491.170	R	3
408.42644	*	1	408.43155	R	7	491.175	R	3
408.42732	*	7	408.43156	R	7	491.180	R	3
408.42733	*	7	408.43157	R	7	491.185	R	3
408.42741	*	7	408.43158	R	7	491.190	R	3
408.42743	*	7	408.43161	R	7	491.195	R	3
408.42755	*	7	408.43162	R	7	491.197	R	3
408.42759	*	7	408.43204a	*	8	550.402	A	6
408.42799	*	7	408.43207	*	8	550.403	A	6
408.42756	R	7	408.43212	*	8	550.404	A	6
408.43101	R	7	436.1335	R	5	792.10201	A	6
408.43103	R	7	484.71	*	6	792.10203	A	6
408.43104	R	7	484.72	*	6	792.10205	A	6
408.43105	R	7	484.73	*	6	792.10207	A	6
408.43106	R	7	484.74	*	6	792.10209	A	6
408.43107	R	7	484.75	*	6	792.10211	A	6
408.43109	R	7	484.81	*	8	792.10213	A	6
408.43111	R	7	484.82	*	8	792.10215	A	6
408.43112	R	7	484.83	*	8	792.10217	A	6
408.43113	R	7	484.84	*	8	792.10219	A	6
408.43114	R	7	484.85	*	8	792.10221	A	6
408.43121	R	7	484.86	*	8	792.10223	A	6
408.43122	R	7	484.87	*	8	792.10225	A	6
408.43123	R	7	484.88	*	8	792.10227	A	6
408.43124	R	7	484.89	*	8	792.10229	A	6

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

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792.10231	A	6
792.10233	A	6
792.10237	A	6
792.10239	A	6
792.10241	A	6
792.10243	A	6
792.10245	A	6
792.10247	A	6
792.10249	A	6
792.10251	A	6
792.10253	A	6
792.10255	A	6
792.10257	A	6
792.10259	A	6
792.10261	A	6
792.10263	A	6
792.10265	A	6
792.10267	A	6
792.10269	A	6
792.10271	A	6
792.10273	A	6
792.10275	A	6
792.10277	A	6
792.10279	A	6
792.10281	A	6
792.10283	A	6
792.10285	A	6
792.10287	A	6
792.10289	A	6

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



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**ADMINISTRATIVE RULES
ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2012 SESSION)**

Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”

Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”

2013 Michigan Public Acts Table

Legislative Service Bureau
Legal Division, Statutory Compiling and Law Publications Unit
124 W. Allegan, Lansing, MI 48909

May 15, 2013
Through PA 28 of 2013

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
1	4153		Yes	3/12	3/12	3/12/13	Sales tax ; collections; retroactive effective date for regulations on prepaid sales tax on gasoline; provide for. (Rep. M. Shirkey)
2		044	Yes	3/12	3/12	6/1/13	Criminal procedure ; sex offender registration; placement on the public registry; remove certain exceptions. (Sen. R. Jones)
3		060	Yes	3/12	3/12	3/12/13	Weapons ; licensing; definition of federally licensed firearms dealer; modify. (Sen. M. Green)
4		061	Yes	3/18	3/18	3/18/13 #	Insurance ; health care corporations; merger of health care corporation with a nonprofit mutual disability insurer; allow, and provide procedures, prescribe requirements on rating and certain contract provisions, and establish requirements for a health endowment fund corporation. (Sen. J. Hune)
5		062	Yes	3/18	3/18	3/18/13 #	Insurance ; health; regulations applicable to nonprofit mutual disability insurer; revise to accommodate merger with nonprofit health care corporation and prescribe requirements on rating and certain contract provisions. (Sen. V. Smith)
6		0234	Yes	3/20	3/20	3/20/13 #	Vehicles ; fund-raising registration plates; fund-raising plate for ducks unlimited; provide for. (Sen. R. Richardville)
7	4337		Yes	3/20	3/20	3/20/13 #	Vehicles ; fund-raising registration plates; distribution of proceeds from sales of ducks unlimited fund-raising plates; provide for. (Rep. D. Zorn)
8		048	Yes	3/26	3/26	3/26/13	Animals ; other; exemption from large carnivore act for certain businesses; expand to exempt businesses that allow patrons to come into contact with bears less than 36 weeks of age or bears that weigh 90 pounds or less and make other general revisions. (Sen. T. Casperson)

* - I.E. means Legislature voted to give the Act immediate effect.

** - Act takes effect on the 91st day after sine die adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto.

++ - Pocket veto.

- Tie bar.

2013 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
9		0233	Yes	3/27	3/27	3/27/13	Appropriations; supplemental ; various state departments and agencies; provide appropriations. (<i>Sen. D. Booher</i>)
10		0252	Yes	3/27	3/27	3/27/13	Watercraft; marinas ; marina dredging loan origination program; establish. (<i>Sen. J. Brandenburg</i>)
11	4398		Yes	3/27	3/27	3/27/13	Watercraft; marinas ; dredging material from Great Lakes bottomlands determined to be largely sand; revise permit fee. (<i>Rep. A. Price</i>)
12	4399		Yes	3/27	3/27	3/27/13	Natural resources; Great Lakes ; expedited conditional permit process; allow for emergencies. (<i>Rep. A. Pscholka</i>)
13	4400		Yes	3/27	3/27	3/27/13	Watercraft; marinas ; dredging material from inland lakes and streams determined to be largely sand; revise fee. (<i>Rep. P. Pettalia</i>)
14		019	Yes	4/16	4/16	4/16/13	Financial institutions; mortgage brokers and lenders ; appointments to the mortgage industry advisory board; modify. (<i>Sen. D. Booher</i>)
15		065	Yes	4/16	4/16	4/16/13	Individual income tax; collections ; withholding requirement for certain members of a flow-through entity; clarify. (<i>Sen. J. Brandenburg</i>)
16	4052		Yes	4/23	4/23	4/23/13 #	Trade; vehicles ; motor vehicle sales finance act; expand to include certain nonmotorized recreational vehicles. (<i>Rep. K. Kurtz</i>)
17	4053		Yes	4/23	4/23	4/23/13 #	Trade; vehicles ; application of retail installment sales act; exclude certain nonmotorized recreational vehicles. (<i>Rep. K. Kurtz</i>)
18	4045		Yes	4/23	4/23	4/23/13	Occupations; electricians ; eligible apprenticeship training programs; revise requirements for fire alarm specialty technicians. (<i>Rep. H. Crawford</i>)

* - I.E. means Legislature voted to give the Act immediate effect.

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- Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
19	4123		Yes	4/23	4/23	7/1/13	Torts; liability; personal injury or property damage caused by propane gas equipment or appliances; provide protection from liability. (Rep. R. Victory)
20		0108	Yes	5/7	5/7	5/7/13	Highways; name; portion of I-94 in Kalamazoo county; designate as the "Officer Eric Zapata Memorial Highway". (Sen. T. Schuitmaker)
21		0288	Yes	5/8	5/8	5/8/13	Natural resources; hunting; natural resources commission ability to designate species as game; provide for. (Sen. T. Casperson)
22		0289	Yes	5/8	5/8	5/8/13	Natural resources; hunting; right to hunt and fish; provide for. (Sen. T. Casperson)
23	4093		Yes	5/9	5/9	5/9/13 #	Crimes; intoxication or impairment; alcohol content for individuals operating a vehicle under the influence of alcoholic liquor; maintain at 0.08 without reversion to 0.10. (Rep. A. LaFontaine)
24	4131		Yes	5/9	5/9	5/9/13 #	Criminal procedure; sentencing guidelines; alcohol content for individuals operating a motor vehicle under the influence of alcoholic liquor in the code of criminal procedure; maintain at 0.08 without reversion to 0.10. (Rep. K. Kesto)
25		0218	Yes	5/9	5/10	8/9/13	Economic development; tax increment financing; sunset on water resource improvement tax increment finance authority; remove, and allow dredging. (Sen. G. Hansen)
26		0123	Yes	5/9	5/10	5/10/13	State financing and management; funds; funding for purchase of land and development of certain convention facilities; provide for. (Sen. D. Hildenbrand)
27	4037		No	5/14	5/14	5/1/14	Traffic control; driver license; designation of veteran status on driver license; provide for, and allow secretary of state to report certain veteran information to certain other departments and agencies. (Rep. N. Jenkins)
28		0219	No	5/14	5/14	5/1/14	State; identification cards; veteran designation on state identification cards; allow. (Sen. D. Booher)

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*** - See Act for applicable effective date.

+ - Line item veto.

++ - Pocket veto.

- Tie bar.